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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 7 February 1946, 1000-1300, Lord Justice Lawrence presiding.

M. MOUNIER(Counsel for France): Mr. President, your Honors: I had begun yesterday, before the break in the session, to explain or expose to you very briefly the relations which, in our eyes, unite the two leading ideas of the accusation; namely, the accusation of conspiracy held against certain groups designated in the Indictment, and which I enumerated yesterday, on the one hand; and, on the other hand, the various acts which make it possible to conclude as to the criminal character of the activity of the National Socialist conspirators.

I told you first that what appeared as the basis of this criminal activity was the deep mystery, the absolute mystery, which surrounded their meetings, the official as well as the unofficial ones, a fact which is corroborated by statements made by certain of the Defendants in their interrogatories, by virtue of which it was understood that a part of the orders were to be eliminated and completely removed from the records in order to leave no trace.

We consider, likewise, that the proof -- the evidence -- of the fraudulent common plan which existed among the conspirators is shown by the criminal character of the decisions arrived at in the course of these secret councils, and which were intended for the conquest of neighboring countries.

Finally, the proof of the fraudulent common plan derives from the manner in which these criminal plans were carried out with the use of means which are condemned both by international morality and by the written law. For instance, in the international diplomatic order is the most cynical violation, the use in foreign countries of what is called the "fifth column". And, finally, the financial camouflage, the abusive pressure, supported by demonstrations of force. And at last, when these methods no longer suffice, the recourse to war of aggression.

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As concerns the individuals who participated regularly and of their free will in the meetings of groups and organizations, like those that have been pointed out in the Indictment, their voluntary membership in these groups or the active and conscious role which they played in their activity suffice to demonstrate that they had indeed the intention to furnish to these groups an active participation and one that leaves no doubt. In view of the aims pursued and the means utilized, this intention could only be a guilty intention.

In the eyes of the Prosecution, engaged in seeking the elements constituting a crime, this suffices, it seems, to prove what we call the consilium fraudis, and to make possible the verification of the causal link between this will to evil on the one hand, and the criminal deed on the other, and to make it possible to insist on the criminal character of the understanding between the conspirators, and the bond between the conspirators and their criminal acts.

Could the chief ot ehe Four-Year Plan, in giving to the Plenipotentiary for Labor the order to recruit one million workers for the Reich, forget that this act was contrary to international conventions, and leave out of consideration the tragic consequences which this murderous action in its execution would entail for these people and for their families?

Could the Minister of Armament, who set up, in agreement with or on the order of the chief of the air force, underground aviation factories in the internment camps -- could he, I say, fail to be aware that using prisoners who were already exhausted under such conditions was equivalent to causing their premature death?

Could the diplomat who on various pretexts treated diplomatic instruments intended to assure the stability and the peace of the world as scraps of paper — could he lose sight of the fact that these acts would bring the civilized world into a universal cataclysm?

Whether their conscience was at that moment disturbed by the more or less obscure feeling that they were infringing human and divine laws is a question which we need not ask on the juridical plane. But even admitting that on the psychological plane, we consider it our duty, out of our

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juridical scruples, to remember two essential concepts. The first is that the German, according to the observation of the French writer, combines at times in himself the identity of contrariness. Consequently, it is possible that in certain cases he may consciously do evil while remaining convinced that his act is irreproachable from the moral point of view. The second concept is that, according to the rule of National Socialist ethics formulated at times in so many words by certain National Socialist leaders, Good is what is in conformity with the interest and the ideology of the Party; Evil is that which is not in conformity with the interest and the ideology of the Party.

And yet, as concerns us, we had the impression on the occasion of the masterly speech given by M. Francois de Menthon that some of his words, striking in their accent of deep humanity, had stirred consciences. Even today, after so much accummulated proof, we may wonder if the Defendants admit their responsibility as chiefs, as men, as representatives of the incriminated organizations. This perhaps will be revealed in the course of the proceedings.

Mr. President, your Honors: With the permission of the Tribunal we shall now take up the question of the Defendant Alfred Rosenberg.

Gentlemen, the young French student who in 1910 had the joy of spending his vacation in Bavaria, which was then one of the happiest among the German provinces, could hardly suspect that thirty-five years later he would be called upon to apply the international law against the future masters of this country. When, after a halt at the Bratwurstgloeckli, he climbed up to the ramparts to look at the sunset from the heights of the Burg, while the lines of a ballad of Uhland rang in his memory, he surely was not thinking that evil masters and false prophets would unleash twice in a quarter of a century the lightning over Europe and the rest of the world, and that because of them so many treasures of art and of beauty would be despoiled, so many human lives sacrificed, so many sufferings accummulated. Indeed, there could be no question of romanticism when one studies the genesis of this unheard of drama. Rather, what we have to do with is a perverted romanticism, a morbid deformation of the sense of greatness, and the spirit remains baffled

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before the true value of the ideas of National Socialism, ideas which I shall touch upon only in passing, to show how they led the Defendant Rosenberg and his co-defendants to commit the crimes which are held against them:

The notion of Race to begin with, which one sees rising in a country where the mixture of ethnic types of the greatest variety took place through the centuries upon a gigantic scale; this anti-scientific confusionism which mingles the physiological traits of man with the concept of nations; the neo-paganism which aims to abolish what twenty centuries of Christianity have brought to the world in the way of moral rules of justice and of charity; this myth of the Blood which tends to justify racial discrimination, with its consequences of slavery, massacre, looting, and the mutilation of human beings.

I shall not dwell, Mr. President, on what we consider a hodgepodge with philosophic pretensions, in which the most heterogeneous remnants of all kinds can be found, from the megalomaniac concepts of Mussolini through the Hindu legends to the Japan of the

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Samurai, the cradle of Fascism, which swept over the world like a tidal wave. The previous presentations have already adequately dealt with these conceptions. I shall simply stress today that these psuedo-philosophic conceptions tended solely to set back humanity by millions of years by reviving the notion of Clan, which assumes the rule of Force, the Faustrecht already enunciated by the Iron Chamcellor, the right to deceive other men, the right to take the property of others, the right to reduce man to slavery, the right to kill, the right to torture.

But homo sapiens refuses to return to the state of homo lupus. International law is not a morality without obligation or sanction. The statute has recalled and specified the obligation; it is up to you, gentlemen, to apply the sanction.

One of the consequences of these premises of the so-called "Germanic Race" was to lead certain of the conspirators, notably the Defendant Rosenberg, of whom we are speaking, to become a looter, and it is this form of the activity of the Defendant Rosenberg which I should like very briefly to stress, for this concerns France and the occupied countries of the West, and had for their artistic, intellectual, or simply utilitarian patrimony, deeply harmful con sequences.

I wish to speak of all the orders, decreed or applied by Rosenberg with a view to removing from France and the occidental countries artistic treasures, cultural works and properties belonging to groups or to individuals, and the transfer to Germany of all these riches.

Gentlemen, in view of the limited time which we have at our disposal, I shall limit myself today to recalling how, through orders, through higher orders, certain organisms or groups were led to collaborate in this pillaging. I shall indicate, first, of all, the intervention of the Gestapo, which was ordered by a decree or an order by the Defendant Keitel, dated 5 July 1940, which bears No. 137-PS, and which was submitted by the American delegation, under No. 369. I refer likewise to a second order under date of 30 October 1940, which specified more particularly the orders which had been given for pillaging by what was called the Einsatzstab Rosenberg. This is No. 1304, which was quoted by the French prosecution.

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Thus, Keitel and Rosenberg were returning to the notion of a booty exacted by the German people triumphant over the Jewish people, towards which it was linked by no conditions of the Compiegne Armistice. This intervention of the government of the chief of the army, which is indicated by the orders which I have just referred to, would suffice to demonstrate the important role taken by the German Army in this looting, and the Tribunal will not fail to remember it when it will have to decide on the guilt of the Defendant Keitel and of the Defendant Goering.

And if I mention the Defendant Goering, it is because a third document proves that this defendant supported the operation with his full weight, inviting all the organizations of the Party, of the State, and of the Army to bring full protection and full aid to the Reichsleiter Rosenberg and to his collaborator Utikal, who had been, on the 1st of April, 1941, appointed by Rosenberg himself as chief of the Einsatzstab. This is the order of the 1st of May, 1941, which we produced under our No. RF-1406. When we examine the text of this decree tentatively we cannot fail to be struck by the first paragraph. The Tribunal will surely allow me to read it:

"The struggle against the Jews, the Free Masons and their allies, as well as the prosecution of the various powers upholding a conception of the world different from ours or opposed to ours, is a pressing task for National Socialism in the course of the war."

Thus, it was enough to have a conception of the world different from the Weltanschauung, to be exposed to seeing one's cultural property seized and transferred to Germany. But the Tribunal surely remembers, by the documents, that have already been presented to it, that not only cultural property was involved, but anything that had any kind of value was taken away.

The Defendant Rosenberg tried, in the course of the interrogation which was carried out by the superior officers in charge of the preliminary interrogations, to claim, without conviction it seems to me, that the cultural property in question was intended to enhance the collections of the "Hohen Schulen." We shall see presently, in presenting the text of this interrogation, what he thought of this. But it is a fact which

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I shall wish to present now that, at least in the state of the documents which we possess, it does not seem that the Defendant Rosenberg appropriated works of art, precious stones, or other objects of value for himself, so that no accusation of this kind can be brought against him. We shall not state as mcuh of the Defendant Goering, of whom we shall speak a little later and who, according to the documents that we possess, may be conficted of having taken for his personal use a part of the objects of art taken from the countries of the West.

I shall not linger on the discussion of this appropriation of works of art. I shall immediately come to the interrogatory of the Defendant Rosenberg. This is the document that was introduced yesterday by the French Prosecution, which bears No. 1330-RF, and which we use today with its orders No. 1403. In this interrogatory Colonel Hinkel asked the Defendant Rosenberg to tell him what --

THE PRESIDENT: I don't think the numbers are coming through right. The number of the document you are now referring to in the French numbering is 1401; is that right?

M. MOUNIER: The interrogatory of the Defendant Rosenberg has been submitted yesterday. It bears the number 1330-RF. It isn't in your document book. I produce only a reference, since this document has already been submitted. I beg the Tribunal to refer to the document book which was produced yesterday by the economic section. It will find in extenso this record of the translation in French and in German.

THE PRESIDENT: Very well; go on.

M. MOUNIER: I think that the Tribunal will easily be able to refer to this document in camera, but I should like to refer to this document and summarize the essential points which I think should be brought up.

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Colonel Hinkel, in questioning the Defendant Rosenberg, asked him what was the legal basis that could justify such looting. The Defendant Rosenberg first answered that these seizures were justified by the hostility of certain groups which these groups had manifested toward the National Socialist ideology.

A little further on, on page 4, the Defendant Rosenberg declared the following.

"I considered"--he is referring to the measures taken by him--"them a necessity caused by the war and by the reasons which caused the war."

A few moments later, urged by Colonel Hinkel, the Defendant Rosenberg invoked the necessity, which will certainly constitute one of the main points of the defense of Rosenberg, the necessity of putting into security the property which was thus seized.

But Colonel Hinkel replied to the Defendant Rosenberg:

"You meant to put these in safe-keeping? Why was that? Why didn't you put everything in safety? Why did you put in safety only what seemed to you to have to be kept, while you abandoned the rest?"

On the other hand, as concerns the keeping of the objects, there were objects which had a value at least equal to that of those which had been removed and of which no care was taken.

Finally, the Defendant Rosenberg declared that in reality he recognized that most often he had given no receipt to those involved, and that there was no idea of eventual restitution of the property that was taken or that was sold.

But, in reality, what constitutes the truth in this matter is the fact that these were treasures that were very important from the point of view of their value, and that the Defendant Rosenberg in the end recognized that he considered these acquisitions as an accomplished fact, while we consider that the fact of thus having removed objects of art and valuable adjuncts constitutes what is called in private law a fraudulent seizure.

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These fraudulent seizures were carried on on a vast scale with the grandiose means which the Third Reich had at its disposal, means which were further facilitated by the intervention of the army and the Luftwaffe. But it is nonetheless true that the criminal character of these seizures remains, and we insistently ask the Tribunal, when it makes its sentence, to declare that it is by virtue of a fraudulent seizure that the Defendant Rosenberg and his co-defendants robbed France and the countries of the West of all the objects of value and all the art treasures and cultural treasures which they took in France and in the countries of the West.

As concerns the objects themselves, I would refer the Tribunal to the report which was submitted by the economic section yesterday, and which is the report of Dr. Lohse, the collaborator of the Einsatzstab Rosenberg. This report was submitted by the Economic Section under number 1323, and the Tribunal will find there the enumeration of everything that the Einsatzstab took out of France. In this connection I shall make an incidental remark to answer the question that the President asked yesterday of my colleague about the Rothschild collection. The President asked my colleague, "Do you have the proof that a certain number of collections and precious objects were taken from the Rothschild collection?"

Mr. President, I would like to point out that there are two proofs of this. The first is shown by the Rosenberg interrogation of 23 September, 1945, which I have just spoken of to the Tribunal, as concerns the essential questions asked of the Defendant Rosenberg as to the legitimacy or the legal basis of these removals. I beg the Tribunal to refer to page 5 of these minutes. I read from the text the question asked by the American officer in charge of the interrogation, the distinguished American, Colonel Hinkel, my eminent friend.

"How do you justify the confiscation of objects of art belonging to the Rothschild family?" A very precise question. This had to

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do with the objects of art which were taken from the Rothschild family by the organization of Rosenberg.

The answer was still from the same point of view, which means that the Defendant Rosenberg claimed to justify the removals which were made to the detriment of the Rothschilds by the reasons which I have just presented to the Tribunal a few moments ago. Second point: the Defendant Rosenberg thus admitted with his own lips that the Rothschild family was among the people that had been despoiled. The confession, Mr. President, your Honors, can be considered one of the proofs, one of the main proofs.

This is the answer, then, to the question that the President asked yesterday.

The second proof which I wish to present to the Tribunal is the following. I beg the Tribunal to refer to the report of Dr. Scholz that was produced yesterday in the document book of the Economic Section. This is number RF-1323.

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If the Tribunal will kindly refer to this document, that is to say the report of Dr. Scholz, the second paragraph of page 1, it will read the following:

"The special staff not only seized very important" —

THE PRESIDENT (Interposing): As I said the other day, we can't keep all the books before us. We haven't got this book before us, but it seems to me that as you have shown that the defendant Rosenberg agreed that this collection had been taken, that is quite sufficient.

M. MOUNIER: Mr. President, I understand perfectly your point of view. I should like to observe respectfully that I was to speak immediately after my colleague, and if I had spoken immediately after my colleague you would have had before you this document book. The mechanical system broke down and we had a delay, and I apologize for not having thought of asking you to bring this document again this morning.

However, I respectfully ask the Tribunal to kindly note this reference which it will find easily. It is a passage which is very brief, which I ask to read to the Tribunal. It will not take very much time. This declaration is simply the following:

"The special staff" -- that is to say, the Einsatzstab Rosenberg — "not only seized very great portions of the collections which the Rothschilds had abandoned in their Parisian mansion..."

I will not read the rest.

Here then, gentlemen, is an official report that cannot be disputed, which demonstrates, like the previous proof, that the Rothschild collections were among those which were pillaged.

I shall not insist on these facts which are known to you. It seems to me that the two points on which I have just cast light suffice to stress the reality of the illegal seizures, the fraudulent seizures operated by the defendant Rosenberg to the detriment of France and to the detriment, likewise, of the countries of the West.

As for their importance, I do not want to abuse the patience of the Tribunal by quoting statistics. I respectfully ask the Tribunal to refer to

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the Scholz report which I have mentioned twice in the course of my previous statements.

I would not, however, wish to leave the case of Rosenberg for the time being without quoting to thr Tribunal a passage from an article by the French writer Francois Mauriac of the French Academy. Francois Mauriac was present on the 7th of November 1945 at the inaugural session of the constituent national assmbly at the Palais Bourbon. On this occasion, Francois Mauriac evoked a memory which was recalled in these terms in the paper Le Figaro of 6 November 1945:

"Almost five years ago to a day, from the height of this rostrum, the most illustrious in Europe, a man spoke to other men dressed in vert-de-gris. His name was Alfred Rosenberg. I can testify to the exact date. It was 28 November 1940.

"At this rostrum where have been heard the voices of Jaures and of Albert de Mun, and where, on the 11th of November 1918, old Clemenceau nearly died of joy, Rosenberg stood on that occasion, and here are the words that he spoke:

"'In a gigantic revolutionary burst, the German nation has obtained a harvest as never before in its history. The French will admit one day, if they are honest, that Germany has freed them from their parasite which they could not rid themselves of by their own means.'

"And the Nazi philosopher," Mauriac continued, "then proclaimed the victory of blood. He meant the victory of race, but it happens that a man may utter prophetic words unwittingly and that he does not realize the import of the words which God places upon his lips. As Rosenberg predicted at the Palais Bourbon on the 28th of November 1940, it was indeed blood that was victorious. It was the blood of the martyrs which finally choked the executioners."

With the approval of the Court, I wish to follow the very brief method which I have used, and I hope the Tribunal realizes that I am not abusing its patience. I would like to say a few words on the individual accusation concerning Fritz Sauckel.

Your Honors, your Tribunal has already had knowledge of the really

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remarkable work and the definitive work which was presented to it some time ago by my colleague and friend, Mr. Jacques Bernard Herzog. This is why, with your permission, I shall pass over the facts themselves, which are known to you, and I shall limit myself to the part which begins on page 3 of my expose, and we shall examine together, if it please the Tribunal, the basis of the excuses alleged up to now by the defendant Fritz Sauckel.

One question must be asked first of all: did Fritz Sauckel act under orders when he proceeded to this so-called voluntary recruiting, which was actually, in most cases, forced recruiting of laborers who were to feed the needs of the Reich for manpower? According to Sauckel, when he was named Plenipotentiary of Labor on the 20th of March 1942, his initial program did not include the conscription of foreign workers. It is supposed to have been Hitler who intervened at this moment.

It is striking, your Honors, when you have before you the minutes of the interrogations, and I am sure that when we shall hear the voices of the defendants before the Tribunal you will see the defendants for the most part hide behind two great shadows, the shadow of the former Fuehrer, and the shadow of his second, Himmler. Here it is Hitler who intervenes to declare to Sauckel, according to the letter, that the use of foreign workers within the occupied territories is not contrary to the Hague Convention for two reasons:

"First, the countries involved surrendered unconditionally, and consequently we can apply to them any kind of work conditions.

"The second reason concerns the Union of Soviet Socialist Republics which was not a signatory of these conventions. Consequently, as to the friends of Russia, in recruiting workers by force and using them until death, we do not violate the Hague Convention."

This, your Honors, is the reasoning of the defendant Sauckel on this point. It is thus that Hitler is supposed to have given him the order to proceed to recruit workers by using, first, persuasion, and then all means of constraint which you already know, namely, suppression of ration cards which obliged people who saw their wives and children suffering from

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hunger to come to offer their arms to work which was going to turn against their own fellow citizens and against the soldiers of the Allied armies, with whom they felt as one.

The Tribunal will do justice to such an excuse for, in the first place, Sauckel, by virtue of the power which his function conferred upon him, enjoyed full power in regard to everything concerning the labor necessary to the execution of the Four-Year Plan. On the other hand, in assuming his functions as Plenipotentiary of Labor, Sauckel knew that he would not be able to carry out his mission without sooner or later resorting to means of coercion.

Sauckel, like most of the defendants who are before you, had the most extensive powers, and autonomous power. Consequently, he cannot hide behind the orders which he may have received.

THE PRESIDENT: M. Mounier, you must forgive me if I interrupt you, but as I pointed out yesterday, I think, we have already had an opening statement which contained argument from the United States, from Great Britain, and from M. Menthon on behalf of France, and we have, in the past, confined other counsel who have followed them to a presentation of the evidence and have not permitted them to go into an argument.

I am not sure that that rule has been strictly carried ou in all cases because it is, perhaps, somewhat difficult to confine the matter, but we have on several occasions pointed out to counsel who have followed the counsel who has made the leading statement that they ought to confine themselves to a presentation of the evidence. I think the Tribunal would wish you, if possible, to adhere to that rule, and therefore not to argue the case but to present the

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evidence, that is to say, to refer us to the evidence in so far as it has already been put in evidence, to refer us to it by its number, possibly stating what the substance of the evidence is, and in reference to any document which has not yet been put in evidence, to read such parts of that document as you think necessary.

M. MOUNIER: Very well, your Honor. Mr. President, to meet the desires of the Tribunal, I shall limit myself as concerns Sauckel to referring to figures which seem to me not susceptible to discussion of any kind. Since these are figures pointed out by the defendant Sauckel himself in the course of the interrogation, this does not seem to me to infringe upon the rule which the President has just recalled to me.

The figures which are indicated are the following: In 1942 there were already one million foreign workers in Germany. In a year Sauckel incorporated into the Reich economy 1,600,000 war prisoners, approximately, in order to meet the needs of the war economy.

I refer the Tribunal to the document which bears the number 1411 in my document book. This is an interrogation of the defendant Speer under date of 18 October 1945, which has already been submitted by the U.S. prosecution on 12 December 1945, under No. 220. The defendant Sauckel in this interrogation recognizes that 40 per cent of all the war prisoners were employed in production of arms, of munitions, and in related industries.

I likewise recall, under No. 1412, Document U.S. 225 of 13 December 1945, which is a memorandum signed by the Secretary of the Reich, which relates the discussion which occurred in a conference on 4 January 1944, at which, in addition to the defendant Sauckel, the Fuehrer himself was present, and Himmler, Speer, Keitel, Marshal Milch, and so forth. They decided that 4,000,000 would be the figure of new workers that Sauckel was to furnish.

I must mention in this connection that in the course of this meeting Sauckel expressed doubts as to the possibility of furnishing this number of workers if he were not given sufficient police forces. Himmler answered that he would attempt, by increased pressure, to help Sauckel to achieve this objective.

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Consequently, when the defendant Sauckel, as is likely, will come to claim that he had absolutely nothing in common with this institution which is called the Gestapo, which is hated by all, or with the Sicherheitsdienst, we may answer him by an official German document showing that he used the police forces and that he resorted to all the blameable means, which have already been pointed out to you, for the recruiting of labor power.

As to France alone, for the demand for workers at the beginning of 1944 was at the figure of 1,000,000, and this figure was in addition to the figure of workers, men and women, which had already been sent to Germany, and which was from 1,000,000 to 1,500,000.

The defendant Sauckel consequently committed the offenses already known to the Court. We have an old adage, an old slogan, we may say, "The Court has the law; we present only the facts." I shall, therefore, not go further into these matters.

Mr. President, your Honors, I should like now to briefly summarize the activity of the defendant Speer, for concerning France and the countries of the West, the defendant Speer had responsibilities which were of the same nature as those of Sauckel. Like the defendant of whom I have just spoken, he committed violations of laws of war, violations of laws against the human condition, in working for the execution of a vast program of forced deportation and of enslavement of the occupied countries.

Speer, first of all, took part in the working out of the program of forced labor, thus, in the course of the interrogatory, he recognized first that he participated in the discussions in which it was decided to have recourse to forced labor. Second, he supported the execution of this plan and took part in it. Third, the basis of this program was the removal to Germany, by means of force, of foreign workers under the authority of Sauckel. He was Plenipotentiary of Labor within the framework of the Four-Year Plan.

The Tribunal will kindly refer to USA No. 220, submitted by the United States delegation 12 December 1945, which I quote under number 1411 of our documentation.

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As concerns more particularly France, Hitler and the defendant Speer held a conference on the 4th of January 1943, in the course of which it was decided that more severe measures would be taken with a view to hastening the recruiting of French civilian workers without discrimination between skilled and unskilled workers. This is brought out by a note which I ask the Tribunal to refer to. That is a note signed by Sauckel which has already been presented by the American prosecution under No. 556-PS, French No. 1412.

The defendant Speer knew that the levies for forced work in the occupied territories were obtained by force and by terror, and he approved the continuation of these methods. From September 1942 on, for instance, he knew that the workers of the Ukraine were being deported by force in order to go to work in the Reich. He knew, likewise, that the great majority of the workers of the occupied regions of the West were sent to Germany against their will. He even declared before the American magistrate who was questioning him that he considered these methods regular and legal.

Finally, the defendant Speer, knowing that the foreign workers were recruited and deported for the purpose of forced work in Germany, formulated demands to obtain foreign workers, and sought their utilization in diverse and various branches of activity placed under his direction.

The preceding paragraphs summarize the declarations made by the defendant Speer in the course of his interrogation already mentioned, of the 18th of October, 1945.

Moreover, Speer was a member of the Central Committee of the Plan. Because of this fact, and along with Field Marshal Milch, he had above him only Hitler and Goering for everything that had reference to demands for labor. He likewise took part, in this capacity, in the discussions with Hitler for the settling of figures for foreign workers. He knew that most of these numbers came by deportation, through constraint and the enslavement of the occupied countries. Proof of this is furnished by various passages of the minutes of the Central Committee of the Plan and the conferences of Speer with Hitler.

I refer to Documents R-124 and R-125 which have been submitted under

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No. USA 179, on 12 December 1945, by the American Prosecution.

Finally, Speer did not hesitate to advocate methods of terror and of brutality as a means of bringing to its culminating point the productivity of forced work, justifying the action of the SS and of the police and the use of concentration camps against the recalcitrants.

I recall to the Tribunal Document R-124, relative to the minutes of the 21st meeting of the Central Committee of the Plan, 30 October 1942, page 1,059, already quoted. This is the document which I quoted previously, Document USA 179, on 12 December 1945.

The defendant Speer likewise bears a responsibility for the use of warprisoners in military operations directed against their countries, for in his capacity as chief of the Todt organization, he forced the citizens of allied nations to work for this organization, notably in the building of fortifications and, among other things, the famous West Wall. He likewise forced Frenchmen, Belgians, Luxembourgers, Dutchmen, Norwegians, and Danes to manufacture arms which were to be utilized against the allies of the countries to which they belonged.

Finally, a very important question in regard to the responsibility of the defendant Speer. He participated in a direct manner in the use of prisoners of the concentration camps. He proposed the use of prisoners of the concentration camps in the armament factories. Now, in view of the wretched physical condition of the prisoners, from this measure could be expected no productivity but solely the extermination of the prisoners. This use of prisoners of the concentration camps in the factories had the effect of augmenting the demand for this form of labor, and this demand was satisfied in part, at least, by the sending into the concentration camps of persons who in ordinary times would never have been sent there.

In the end, Speer came to establish near the factories concentration camps which served solely to supply them with labor.

He knew the camp of Mauthausen. The spanish witness whom the Tribunal heard a few days ago attested this under oath. He had seen, with his own eyes, the defendant Speer visit the camp of Mauthaousen and congratulate

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the directors of this camp. He even declared that he had worked to prepare photographs of this scene because this visit to the camp must be considered absolutely beyond question. Speer, himself, therefore, saw the barbarous conditions under which the prisoners lived. Nonetheless, he persisted in utilizing labor from the camp of Mauthausen in the factories which were under his authority.

I have concluded the case against Speer. I am at the disposal of the Tribunal to continue.

THE PRESIDENT: We will adjourn now for ten minutes.

(Whereupon a recess was taken from 1120 to 1130 hours).

M. MOUNIER: Mr. President, given the strictly limited time, I see that in considering Goering, of whom I shall have the honor to speak to you, I will be compelled to skip pages 1, 2, 3 of this presentation.

I f the Court will now turn to page 3 of my statement on Goering, I should like indeed to present to the Tribunal the question of the responsibility of the defendant Goering in the measures which were taken against the commandos, Allied aviators, who fell into the hands of the Germans during their missions.

During the trial at several times we have treated an order by Hitler, the 18th of October 1942, which was submitted by the American delegation the 2nd of January 1946 under the number USA 501. It is an order which stipulated the measures to be taken concerning commandos. In the operations in Europe and Africa they were to be exterminated to the last man, although in military uniform, and no matter what their transportation was, boat, plane or parachute. The order was given to take no prisoners.

In the occupied territories the isolated members of commandos who would happen to fall in the hands of the German forces were to be immediately handed over to the Sicherheitsdienst, the branch of the RSHA. This order did not apply to enemy soldiers who were captured or who surrendered in open battle or in the scope of combat operations.

Among those notified was the Oberkommando of the Luftwaffe. Consequently, the defendant Goering knew of this order, and in his capacity as commander-in-chief of aviation, and in his capacity as chief of one of the three military branches, he shares jointly the responsibility with the leaders of the other branches.

We know, also, that the same date, October 18, 1942, Hitler had a memorandum distributed stipulating that if they should take for the moment one or two prisoners to obtain from them information, they were to be put to death immediately after their interrogation.

I refer to Document USA 502 of the 9th of January. The American Prosectuion, which produced this document, has also submitted to the Tribunal a certain number of SS cases that prove that under numerous circumstances these orders were carried out.

On the other hand, the Tribunal already is aware that numerous Allied aviators who were in German territory after the loss of their plane were

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mistreated and lynched by the Germans with agreement and aid of the authorities. For proof we only require the order of August 10, 1943, by which Himmler forbade the police to concern itself with these lynchings and to avoid any opposition to them.

I refer to Document USA 533 of the 19th of December 1945.

Goebells, in an article of the Voelkischer Beobachter, interfered in the same way. Bormann, in a memorandum of May 30, 1944, confirmed these instructions and stipulated that they should be handed over to the administrative authorities, not in writing but orally. I refer to Document USA 329, cited the 17th of December 1945 by the American Prosecution.

These instructions were literally carried out, as shown by the fact that the American forces have, since the capitulation, brought to trial a considerable number of German civilians who had murdered unarmed Allied aviators.

But the Defendant Goering was not satisfied to simply let these things occur. At the time of a meeting which took place the 15th and 16th of May, 1944, he stated that he would propose to the Fuehrer to put to death on the spot and immediately, all soldiers, not only soldiers who had come down in parachutes but the American or English crews who attacked indiscriminately cities and civilian trains. This is Document 766, cited the 13th of January 1946 under the number 166.

In fact, Goering saw Hitler between the 20th and 22nd of May 1944. The General of Aviation, Korten, sent the Defendant Keitel a memorandum pointing out that Hitler had decided that enemy aviators who were shot down should be put to death without trial when they had participated in acts characterized by terrorism.

This is Document 1631-PS, which is a photostatic copy which is found on the bench of the Court. I ask the Tribunal's permission not to be required to read this document, and that the Tribunal refer to it and read it. However, I am at its disposal if it wishes me to read it.

THE PRESIDENT: No; it has already been put in, has it not?

M. MONNIER: Yes, Mr. President.

It was agreed, consequently, with the OKW that Himmler, Goering, and Ribbentrop would be consulted on the measures to be taken in this matter. Ribbentrop proposed that any attack upon German cities should be considered

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as constituting an act of terrorism.

For himself, General Warlimont, in the name of the OKW, proposed two means: lynching, and what they called the Sonderbehandlung, or special treatment, which consisted of delivering the concerned parties to the SD where they were subjected to divers treatments of very notorious character., for instance, the Kugel action, which has already been spoken about, and which was simply a way of doing away with those in question. Document GB-151, 9th of January 1946, was submitted to this effect.

On the 17th of June 1944, Keitel wrote to Goering to ask him to approve the definition of the acts of terrorism, in the way that Warlimont had drawn up this definition. On the 19th of June 1944, Goering had his reply, that the population should be forbidden to act as it had done against enemy aviators, and that these enemy aviators should be brought to trial, given that acts of terrorism were forbidden by the Allied Government to their aviators.

I refer here to Document 732-PS, which I submit to the Tribunal under the Number RF 1405.

Consequently, I draw the Tribunal's attention to this: On the 26th of June 1944, Reichsmarschall Goering said that he was pleased that a judiciary action should be taken against these aviators. Remember this date is 1944, because it is important.

On the 26th of June 1944 the aide de campe of the Defendant Goering telephoned to the staff of the OKW, who had insisted upon an exact reply, and notified it of the agreement of the SD leader, the Reichsmarschall Goering, of the definition of acts of terrorism, and the proposed procedures which were to be either delivery to the SD and the Sonderbehandlung or special treatment, or immediate execution.

I refer to Document 733-PS and 740-PS, cited the 31st of January 1946, by the French Prosecution, under the number374 and 375.

Finally, Hitler, in a memorandum the 4th of July 1944, let it be known that the Anglo-Americans having decided the reprisal against the V-1 to make aerial attacks against small cities without military importance, asked the German radio and press to announce that any enemy aviators shot down during an attack of that nature

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should be immediately put to death after their capture.

Such are the facts which are found in these incontestable documents, and if I cite the reply made in June 1944 by the accused Goering, it is with the concern to bring to the Tribunal the authenticity of the documents in question. But I see that I am obliged to conclude, despite the order of June 26, 1944, of the full responsibility of the defendant Goering.

In fact, the defendant Goering confesses that he never gave an agreement to these measures, and Captain Breuer is the one who had the telephonic conversation with the staff of the IKW. He, according to the Defendant Goering, acted without having consulted Goering prior to acting, and according to the statement that he made he doesn't consider himself responsible for all these absurd things, all without importance, accomplished by his subordinates.

But, gentlemen, without referring to the famous principle or Fuehrer principle, for I see in it a way of replying to those interested in German law, in all of that Goering is responsible in his capacity as leader. Where authority is, there we find responsibility.

Moreover, what did he do to end the massacres of aviators by people whom he had commanded to do the opposite, according to the orders which were forbidden to be written out?

And if, to give Goering the full benefit of legal argument, we consider the position taken by him in the order fo June 19, 1944, to which I have referred as establishing truly at that date his doctrine concerning the massacre of aviators and of parachutists, we are obliged to observe that at that date, the 19th of June 1944, even the blindest in Germany knew that the German forces were shortly going to succo mb to the weight of the Allied armies.

Now, during all the war in Germany they put to death Allied aviators. Moreover, if the Defendant Goering maintains that the letter of 19 June 1944 was written by his aide de camp, he is obliged to admit that the letter of the 26th of June, 1944, written by the aid de camp also, can be imputed to him, although signed by one of his subordinates. We consider, then, that the documents signed by the aide de camp link Goering as much as if he had signed them himself.

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Mr. President and gentlemen, I shall not extend my argument concerning the responsibility of the defendant Goering concerning the compulsory labor. I ask the Court to permit me to refer, if necessary, to the enlightenment that I have tried to put in this brief concerning the question.

I shall not speak either of the use of war prisoners and prisoners in concentration camps, as I said in Page 10 of my brief. I should like simply to say a word concerning the economic spoilation and the spoliation of artistic treasures as far as these questions are treated on page 11 at the bottom of my brief.

Concerning economic pillage, I shall not stress the considerable part taken by the accused Goering as the leader of the Four Year Plan in all the measures which contributed to strip all the Western countries of their substance I shall simply point out one fact which I believe has not yet been brought to your knowledge, which is found in the next to the last sub-heading of page 12.

After the Armistice in 1941, the Defendant Goering operated to the effect that the Hermann Goering Werke should be handed over by Roechlin, who was the custodian, and that all the factories of Lorraine belonging to the family of Wendel should be handed over the Hermann Goering Werke. This is naturally related to all the parts of the economic section and the information which we considered necessary, which was furnished by the French Prosecution.

Concerning this, the Court will realize that Goering shares jointly with the Defendants Rosenberg, Ribbentrop and Seyss-Inquart the responsibility for this spoliation.

Concerning the spoliation of works of art, we have documents which permit us to conclude concerning this, which is obviously not agreeable for a man who had the high place of the Defendant Goering, to wit, the fact that a part of the works of art of great value which were pillaged from the Western countries were reserved for him without any osrt of compensation.

I will let the Tribunal apply the proper article of domestic law concerning this type of legal violation, but what I should like to say today is that the putative appropriation of works of art by the Defendant Hermann Goering is proved in documents which cannot be contested which have already been submitted

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to the Tribunal. I refer particularly to Document USA 368 of the 18th of December 1945. This document was submitted by the Economic Section of the French delegation under the number 1309.

I rapidly recall that this document prescribes that works of art taken from the Louvre will be classified, in the first place, works of art which the Fuehrer reserved for himself the right to fix their destination. Secondly, works of art which were destined to complete the collection of the Marshall of the Empire, and so on. I won't read the rest of the document.

What was the result of these levies by the defendant Goering? Did he pay anything for these? It seems that the contrary is true. In the interrogation of the defendant Rosenberg, which was given under the number 1330, it is pointed out that the Defendant Goering made his selection among the works of art which had been assembled by the special staff of Rosenberg. This selection was made for Goering, and Goering made no payment in compensation to the Reich Treasury.

To not exceed the time which the Tribunal has at my distribution, I should respectfully like to ask if we can now go back to page 10 of the transcript previously cited, where they will see the intervention of the Defendant Goering concerning the levies of works of art. There you will find that no sum of money was paid in compensation.

I simply submit in passing that on the top of page 11 you will find the statement in reply to a question asked by Colonel Hinkel.

THE PRESIDENT: You are referring to page 10 and 11 of which document?

M. MOUNIER: Page 11, Mr. President of Document 1403, which was submitted under the number 1330, by my colleague.

THE PRESIDENT: Yes.

M. MOUNIER: It is not there for reasons I have already pointed out to the Tribunal.

Colonel Hinkel, at the bottom of page 10, asked the following question:

"Isn't it said in the last paragraph of this letter that you didn't think that Goering was to pay for these objects which he had chosen for himself?"

The reply of the defendant Rosenberg: "Not exactly. I would like to add the following." What he adds is important, I think, "I felt rather bothered when I heard for the first time that Goering had for his own use taken

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a part of the artistic works which the special staff had sent to Germany".

That is all, gentlemen, I won't say anything more. I merely want to point out to you the worry, the annoyance, which Rosenberg felt on this occasion.

Mr. President, gentlemen, concerning the interference of the accused Goering in crimes against humanity, notably concentration camps, I shall ask the Tribunal, when they have time, to simply refer to a few paragraphs which I rapidly call to their attention.

There is a document which has not been submitted to the Tribunal which I would like to submit today, which concerns the surgical and medical experiments of which they have already spoken to you, the experiments of Dr. Rascher concerning certain medical subjects.

There is a question which I treat on Page 17 of my brief which concerns the document which I submit under Number 1427. This is a document which originally had the number L-170, which is the report authenticated by Major Leo Alexander of the British Medical Corps, concerning the institution called the Kaiser Wilhelm Institute.

Major Leo Alexander, at the time of the defeat of Germany by the Allied Forces, conducted an investigation concerning the experiments of Dr. Rascher, and these experiments were carried out in the Kaiser Wilhelm Institute. This report is entitled "Neuropathologie and Neurophysiologie", including Electro Encepalographie". This Kaiser Wilhelm Institute was an institute for cerebral research, page 18 in my brief. This institution had formerly been in Berlin Buch, and was divided into three establishments, one in Munich, one in Gottingen, and a third one, which interests me, was found in Dillenberg. In Hesse-Nassau there was a special department for pathology directed by Dr. Haller-vorden.

THE PRESIDENT: Could we see the original?

(A document was submitted to the President).

THE PRESIDENT: Is the series "L" referred to in Major Coogan's affidavit?

M. MOUNIER: Yes, Mr. President, part of the documentation.

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Mr. President, I would like to point out this number F-170 is the same as concerns the same Major Alexander concerning the experiments of Dr. - Rascher. It is the same number.

THE PRESIDENT: As this document has already been put in evidence in the series "L" - it is L-170 I think - the Tribunal will treat it for the moment as being in evidence and will further consider its admissibility.

M. MOUNIER: Yes, sir. In all events, I would like to remind the President that I submit in this brief and communicate the passage which I wish to cite, which I consider of my interest in my brief. The passage is quoted entirely in my brief.

THE PRESIDENT: Yes. Which passage do you wish to refer to?

M. MOUNIER: Pages 20 and 21 in my brief.

THE PRESIDENT: Yes; do you wish to read them?

M. MOUNIER: I simply will do whatever the Court considers proper in this matter. If the Court considers this superfluous, I would like to point out what I find striking in this document is the manner in which Dr. Hallervorden ordered the delivery of brains which he examined when he said this:

"I went to them and I said 'Listen, my friends, since you are going to kill all these people there, at least keep those brains which we may use.'

"They then asked me 'How many can you examine?' 'An unlimited number, the more the better,' I told them. 'I will give you couplings, jars, boxes, necessary instructions for removing and fixing brains.'"

I call the attention of the Tribunal to the truly horrible character of the measures which one took concerning the people who were to be killed merely to have their brain examined. For they were first taken in the different buildings of the establishments, according to Page 20, following measures simple and rapid. Most of the establishments did not have enough physicians, so either through exfess of work of by indifference they had gotten rid of the selection of those patients to be killed and placed that selection on nurses and male nurses. Whoever appeared tired, in the view of the nurses, was placed on the list and then taken to the death center.

The worst part of the matter was the brutality exercised by the

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personnel. They selected whom they did not like and put them on the list.

I shall limit my citation there, Mr. President, but what I should like to do subsequently, unless the Tribunal is going to -

THE PRESIDENT: (Interposing) Dr. Stahmer wants to say something.

DR. STAHMER (Counsel for Goering): I object to the introduction of this protocol. I can see no connection between what happened as described in those documents and the Defendant Goering. Goering was completely unaware of these events, and tells me he had nothing whatever to do with these matters.

THE PRESIDENT: I hate to interrupt you, Dr. Stahmer. You will have a full opportunity of presenting arguments to us to show that the evidence which is adduced, which is brought forward now against the Defendant Goering, has really no reference to him. You will have a full opportunity to do that at the appropriate stage when you present the defense. The only question we are considering now, the technical question, is whether this document is a document which is admissible. We are considering it of course, but it is not the appropriate time for you to present your argument, that the document doesn't refer to Goering and that Goering had no knowledge of it. That will be your defense. It isn't an objection to the admissability of the document. It is an argument to show that you are now presenting to us that Goering didn't know anything about the document and didn't know anything about the experiments.

Do you understand what I mean?

DR. STAHMER: Yes, sir.

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THE PRESIDENT: Yes, M. Mounier, continue.

M. MOUNIER: Mr. President, I should like to point out that my friend, Mr. Elwyn Jones, just pointed out to me that this is a proof considering the conditions under which this was submitted. This is the document which is entitled, "The Intelligence Division Sub-committee APO 430. The Combine Intelligence Subjective Committee." This reference is found in the English copy which I submitted in the modern book which I submitted to the Tribunal. I would like generally in citing this short passage--

THE PRESIDENT: Maybe the Tribunal had better keep the original document for the present.

M. MOUNIER: Yes. By the way, Mr. President, considering the short passage, I want to demonstrate what there is truly atrocious in the way in which they treated the people in order to procure the matter which they alleged had experimental purposes. This concerns the prosecution of Hermann Goering, for which the Tribunal will take account of this fact - of these experiments; made for the purpose of Goering's information on a scientific nature or pseudo-scientific nature concerning the result of experiments upon the brains of aviators, and of which accidents might come to the aviators.

These experiments are linked to those of Dr. Rascher, concerning which correspondence was addressed, which includes permission unknown by the accused Goering, who was directly interested in the aviation branch of which he was the chief. I cite for instance a letter of 24 October, 1942, which was addressed by Himmler to Dr. Rascher, which I submit to the Tribunal under the number 1409-RF. To save the Tribunal the effort I shall not read this letter. I shall simply refer to another document which has already been cited as document 343-PS. It was submitted by the American Prosecution under USA number 463, the 20 December 1945, and it is a letter which proves that Marshall Milch was entrusted with this beginning with 20 May, 1942, by the accused Goering, but transmitted to the SS with the special

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facts for the aid which they had brought to the Luftwaffe from the experiments of this date of medical experiments. Consequently, we consider on this point the responsibility of the defendant Goering is found clearly established.

Mr. President, and gentlemen, I shall like to conclude with a few points concerning the defendant Goering, to which I would like to draw attention of the Tribunal direct. That is all my brief against Goering, and in conclusion, I shall not read it, but with the permission of the Tribunal, I shall say that this conclusion is an extract of Book No.1699, which is well known in Germany, which is called "Simplizius Simplizissinus;" the work of Grimmelshausen by an eminent personage Hallervorden, of which fortunately the realization seemed to be made in, naturally, German regime.

I now go to the accused, Seyss-Inquart, whose case has appeared through the interest of our friends in the Netherland, for which I act as counsel.

Mr. President and gentlemen, consequently, concerning the defendant Seyss-Inquart, both in the name of Netherland Government, and for a thorough account, the French prosecution attempts to point out as briefly as possible the particular points of accusation against the defendant Seyss-Inquart. The part played by Seyss-Inquart is his participation in the annexation of Austria, which was carefully studied during the course of his trial, but all his operations in Holland should be considered today to be brought to the light of day.

On 13 May 1940, the Netherland Government left Holland a rich country and an Allied country where its presence showed a firm will

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On 13 May 1940, the Netherland Government left Holland a rich country and an Allied country where its presence showed a firm will

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to advocate in any way its prerogative of sovereignty.

On 29 May, 1940, the Defendant Seyss-Inquart who had the title of Reichsminister without Portfolio, was named State Kommissar for the occupied Netherland region. We must consider then that from that day until the day of the capitulation of the German Army, the Defendant Seyss-Inquart in his function was responsible for all the acts of the alleged Civil German Government. It is clear from the evidence of his speeches, which he made, that he was invested not only with purely administrative functions, but also with political power.

In vain he tried as he did try before Colonel Thomas Dodd, my friend Colonel Dodd, who interrogated him, to maintain in Holland that he only was in some way an official entrusted to put his seal on orders, as formerly in Austria he was practically only a telegraph operator. The pages in this interrogation dated 18 September 1945, were pages 20 to 22. I don't wish to bring these interrogations before the court since there are a great number of them, but I merely want to draw this Tribunal's attention to these interrogations at the time the cross-examination on these interrogations may be brought forth.

THE PRESIDENT: Mr. Mounier, has the interrogation been put in?

M. MOUNIER: No, Mr. President.

THE PRESIDENT: Well, as a matter of technical procedure--

M. MOUNIER: I know that I cannot put in this evidence as proof. I know that this cannot be proof in your eyes.

THE PRESIDENT: Yes, it can be given if the rule is complied with.

M. MOUNIER: Under the given rule which you put down, yes. I simply want, Mr. President, to simplify it, itself.

THE PRESIDENT: M. Mounier, I think you are misunderstanding me. Under the article the Prosecutors have got the right to interrogate any of the Defendants, and this was an interrogation of one of the Defendants.

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M. MOUNIER: Yes.

THE PRESIDENT: If the Prosecution choose to do so, they can offer their interrogation in evidence.

M. MOUNIER: Yes.

THE PRESIDENT: If they don't choose to do so--

M. MOUNIER: No.

THE PRESIDENT: They need not do so.

M. MOUNIER: Yes.

THE PRESIDENT: Under such circumstances the interrogation is not in evidence, and need not be furnished to the Defendant until it is.

M. MOUNIER: Yes, Mr. President, I will not allude to these statements of the Defendant Goering during his interrogation. I simply propose to point out to the Tribunal that in the order of the cross-examination at that time we can then submit these statements of which I speak now.

With the permission of the Court I shall now take up the subject of the terrorist activity of the accused Seyss-Inquart. It is manifested in the Holland measures, first, by a system of collective fines. In March 1941 was established a system of collective fines imposed upon the Dutch cities, where were found fined all where they believed should be fined, the resistant element. Thus in the city of Amsterdam they had to pay a fine of fifteen million guilders, and the city of Hilversum was fined two million and a half.

The Defendant Seyss-Inquart also established the system of hos-

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tages, and on May 18, 1942, published a proclamation where he mentioned the arrest of 460 persons in important official positions, who were simply suspected of being in relation with the resistence movement. In fact, the defendant has admitted before Colonel Thomas Dodd such. I will not discuss the interrogation, or the possibility of it. I simply point out in a general way, and I ask the Court to consider as facts, and under this charter, I should like to point out to the Court that this Seyss-Inquart tried to hide behind the shadow of the Fuehrer.

By the decree 7 July 1942, the defendant ordered that the German Tribunal, of which he appointed himself one of the judges, concern themselves with the case of concerning not only the German citizens in Holland, but also citizens spoken of actively hostile of the Reich, hostile to the Nazi Party, or hostile to the German State. At the same time the defendant Seyss-Inquart introduced death penalties against those who had not properly carried out their security task assigned by the Wehrmacht, or the Security Police, who had not informed the German Command Posts of all the criminal projects directed against the occupational forces, and of which they had knowledge.

THE PRESIDENT: M. Mounier, you were citing then a proclamation dated 18 May 1942. You didn't give us any number as yet.

M. MOUNIER: Mr. President, I am saying that I referred to the official report of the Netherland Government.

THE PRESIDENT: You stated in there, that that also applied to the document of 7 July 1942, that you just spoke of.

M. MOUNIER: Yes, Mr. President. The defendant Seyss-Inquart in May mentioned the SS Gruppenfuehrer Raucher, called the SS Obergruppenfuehrer Raucher, he had appointed him as general commissar for Security. This latter was responsible for all these murders in Netherland and the provinces which was carried out with tact and in agreement with Seyss-Inquart, and also considering the fact the appointment of Raucher was always kept intact and that he was never recalled.

On the other hand the Netherland Government reproaches Seyss-Inquart with having created a series of emergency courts, and in May 1943 he created summary police jurisdiction, and by a decree of Hitler, Dutch war prisoners

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who had been freed shortly after the cessation of hostilities were to be new internees. They then said a very strong resistance arose in Holland factories, thus no summary jurisdiction intended and several citizens were executed.

Moreover, Seyss-Inquart during a meeting of Dutch collaborators didn't fail to boast of glorified terroristic measures, and claimed the responsibility for them. The defendant Seyss-Inquart was in Holland the supreme representative of Hitler. He should then be considered as responsible with the defendant Sauckel for the deportation of people in mass from Holland to the Reich in 1940 to 1945.

If the German military authorities had in their hands to interfere in the mobilization of labor of Holland, officials of Sauckel in Holland found themselves placed under the authorities of the Statekommissar Seyss-Inquart, and he must then be considered as responsible for their actions. It was Seyss-Inquart who signed the decree of Reichskommissar No. 26 in 1942, which is found in the official Dutch Labor order of Germany sending Dutch labor to Germany, who didn't wish to work for Germany did not eat; the occupying authorities even reached the practice of huge roundups in the streets of Rotterdam, and with a hope that they procure labor for the fortifications of the Wehrmacht.

Considering the operation of the economic pillage under the Reichskommissar of the defendant Seyss-Inquart, the Dutch colonies with all the other occupied countries were pillaged. That during the winter of 1941-1942 there was an order by Seyss-Inquart for requisition of woolen for the German Army on the eastern front. In 1943 there was a requisition of textile, and every-day household articles for the benefit of the German population which had been bombed, and application of what the occupying authorities called the "Action Boehm", and the Hollanders were obliged to sell wines and various objects which were destined to be presented to the German population on the celebration of Christmas 1943.

In the organization of the black market, the same interference and purpose of carrying out the four-year plan, Seyss-Inquart brought to the defendant Goering, and the defendant Speer an application of aid and pillage of Dutch Colony. "We can maintain a vast black market with this encouragement and maintain it."

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The "Vierjahresplan" was utilized by the agents for these alleged purchases but when the Netherland agencies for persons would intervene they were prevented by the German police.

In 1940 the defendant Seyss-Inquart issued a decree permitting the German authorities in Holland to confiscate the property of all persons who could be accused of hostilities against the Germans in the Reich. The property of the Royal Family was upon the order of Seyss-Inquart confiscated by the general kommissar of Security. The occupation troops considered themselves able to utilize every one possible.

This pillage was manifested in a particular cruel manner, sofar as the requisition of elementary food products. In fact, the official reports indicate by a document which was already submitted by the economic section of the French prosecution under No. L-RF 130. Our document RF 139, and RF 140. At the beginning of the occupation the food supply was systematically taken away with the agreement of Seyss-Inquart, as were the agriculture products which were taken to Germany in 1944. Colonel Dodd in his deliberation, on South Holland where was a strike taking place in the north, told of Seyss-Inquart defending himself to break up this strike forbade any transportation from the northeast to the west of any food. Because of this it was impossible to establish food stocks for the winter in the west, and, consequently, the responsibility for a famine which took place in the winter of 1944 and 1945, which resulted in the death of 145,000, remained his, and the responsibility is under Seyss-Inquart.

Sofar as the Works of Art is concerned, the pillage was carried on the say way. The defendant Seyss-Inquart must be considered responsible for having organized a removal of works of art in Holland, because he called to his service a friend, Dr. Muehlmann, who is a specialist in this branch. I refer the Tribunal to this document which is submitted by the economic section of the French prosecution under No. 1342, No. 1343, and No. 1344.

Finally the defendant Seyss-Inquart took by a series of measures control of International Law which caused Netherland a considerable prejudice in 1941. The Netherland authorities had established a custom control which

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permitted to follow acquisitions made in Germany money, or of any merchandise, or of public funds, and any uprposes of avoiding so that the economic of Holland could not be deprived of valuables thereof, of material, or of currency.

On the 31 March 1941 the defendant Seyss-Inquart abolished these frontier currency systems existing between the Reich and the Holland terri-

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tory, thus by way of abusing any monetary matter by the occupying power and adding inadmissible German requirements in the matter of its production exigencies 500,000,000 Reichsmarks. 24 March 1941 the frontier control between Netherland occupied territory and Germany was also done away with, probably on order of Goering, in order to expedite the pillage of Netherland economic system. When the forces of the army began to be in control of the Reichsmark, Seyss-Inquart, on 1 September 1944, then became systematic in its destruction. The objective which the Germans proposed in the Netherlands were the following:

1st, to demobilize or make useless factories, shipyards, basins and docks, port installations, or development lines, bridges, railway equipment. Secondly: To bring about floods in the western part of Netherland. Thirdly: to seize raw materials, half finished products, manufactured products, machines. At times by requisition, at times by monetary payment and in numerous cases by simple armed thefts. Fourth: To force by stealing where valuable articles were, like diamonds, and to seize illegally. The results of these measures for which the accused Seyss-Inquart is responsible, or which he shared the regular responsibility to throw Holland into a dissolute state.

I have now concluded, Mr. President, the case of Seyss-Inquart.

THE PRESIDENT: M. Mounier, how long a time do you anticipate you will take this afternoon, because I understand that the case against the defendant Hess will be presented afterwards, and it is important that he should finish that day, so that the chief prosecutor may have a full day for his opening statement.

M. MOUNIER: Mr. President, with the evidence of yesterday, and today I have yielded to the desire of the Tribunal, I understand perfectly your concern to shorten as much as possible the trial, and with this point in view this morning I shortened my remarks which I was going to make to you. That is why I state in the name of the French prosecutors I shall now prosecute the case of the other defendants, which was on the schedule, but I merely ask the Tribunal to permit me simply, except for the cases of Keitel and Jodl, may

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it please the Court, present at the beginning of this afternoon session my presentation. Mr. Quarte calls to my mind we will try to make it as short as possible, in that way the British Delegation will have two hours necessary for the case of Hess.

May it please the Court, Mr. Quarte will take the floor at two o'clock for one hour, and that will leave two hours for the British Delegation.

THE PRESIDENT: Another question that I would like to ask you, M. Mounier, as to the document against the other defendants, other than Keitel and Jodl, have they been furnished to the defendants concerned in them.

M. MOUNIER: Yes, they have, Mr. President.

THE PRESIDENT: We will adjourn now.

(A recess was taken from 1250 to 1400 hours)

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Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Herman Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 7 February 1946, 1400-1700, Lord Justice Lawrence presiding.

M. QUARTRE: Mr. President, your Honors, I have the honor today to bring to a close the presentation of the French prosecution by bringing together the charges that weigh against the Defendants Wilhelm Keitel and Alfred Jodl. Before going into my statement. I shall ask the Tribunal for the authorization to present a few observations. First of all, to spare the time of the Tribunal, we have joined together the two defendants in the same brief. Their activities were so common, so closely linked, that in separating them one would risk making tedious repetitions and for the same reason, I am condensing as far as possible what I have to say.

This expose' includes three parts. In an introduction, I have endeavored to situate the two defendants in the framework of their activities. The first part following this is devoted to the preparation of the plans of aggression, and will be merely mentioned. It has already been sufficiently expounded so that it need not be brought up again.

The second part will concern me particularly--it has to do with the responsibility of the accused in the crimes committed in the course of the war. In this connection, I shall not make use of all the documents, the testimonies and interrogatories which concern these two defendants. If their guilt is a function of the repetition of their crimes, it is characterized above all by the criminal intent which preceded over their execution. This criminal intent is particularly brought out by a few documents which I have selected. I shall ask the Tribunal's permission to make a few quotations from these. Deliberately they will be as brief as possible.

The documents quoted will be first quoted under the indication of the section number which you will find read in the margins of the copy which you have before you. I shall thereupon indicate the original number. If the document has already been submitted, I shall furnish the date at which it was submitted and the number under which this document was submitted.

As Chief of the National Socialist Party, having become Chancellor of the

Reich, Hitler endeavored first of all to submit the German army to his sole will. The unity which he had established between the Party and the State was, as he thought, to reign over the Army, the State, and the Party. Thus only would the war machine be capable of fulfilling its function. The Party would give the impulse, the State would translate this into acts and the Army would impose it, in case of need, within the country as well as without. To achieve this aim, it was necessary first of all to impose a legislation subordinating in fact the whole military organization to the Furher. It was also necessary to proceed with the elimination of personalities that were too unyielding to submit to these measures. The execution of von Schleicher in 1934 and the disgrace of Blomberg in 1938 are two examples. It remained only to provide for their replacement by military chiefs whose conscience was sufficiently brought to ply the role of faithful executors. Keitel and Jodl were among these. Their personal convictions and the sudden fortune of their careers give proof of this. Questioned on the 3 August 1945, by Colonel Ecer of the Czechoslavakia Military Justice, the Defendant Keitel spoke thus of his relations with Hitler and the National Socialist Party.

This is document RF 1430, formerly RF 710. "Within myself I was a faithful supporter of Adolf Hitler and my political convictions were National Socialist. When the Fuehrer granted me his confidence, the personal contacts which I had with him caused me to evolve toward National Socialism. Today, still, I remain a convinced partisan of Adolf Hitler, which does not imply that I adhere to all the points of the program and of the policy of the Party."

On the 7 November 1942, speaking in Munich before the Chief of the Reich and of the Provinces, to explain to them the strategic position of Germany on the threshold of the fifth year of the war, Jodl declared this in his perorations. This is document FR 1431, L-172, submitted by the American prosecution 27 November 1945. "At this moment I should like to certify not with my lips but from the bottom of my heart, that our confidence and our faith in the Fuehrer are limitless."

Keitel, who in 1901 had embraced the career of arms, was still a colonel in 1931. Three years younger than him, Jodl, was merely made a Lt. Colonel in 1932. In spite of the opportunities presented by the campaigns of 1914 until 1918. These years had given him only a mediocre advancement. Those which led before them were going to bring them to the peak of honor and support. They saw at last their star rising at the same time that that of the new master of Germany was rising and immediately they were raised to official life.

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During these years which preceded the war, Keitel did not cease to exercise high functions in the supreme echelons of the organization of the German armed forces. In enjoying a particular favor with the new master of Germany, he took all possible measures from the moment of accession of Hitler to power, to strengthen the influence of the Nazi ideology within the army. His activity in the Wehrmachtamt was particularly fruitful. This was a ministerial organization taking the place temporarily of the Ministry of War of the Reich and including among its powers the preparation and the coordination of plans connected with the German army. The tenure of the defendant in office, in this office, was all the more noteworthy by the fact that a deep reformed structure had st been effected. The Reichswehr of the professional soldiers gave way to the Wehrmacht, recruited by the obligatory military service. It was no longer enough to call the whole German youth to the flag; it was also necessary to clothe it and feed it and supply it with modern powerful weapons. This increase in the forces, these beginnings of a military economy of a policy of rearmament, are to a large extent the fruit of the efforts of the defendant, who at this moment enjoyed if not de jure at least de facto, enjoyed the prerogatives of a Minister of War.

On the 4 February 1938, when Hitler suppressed the War Ministry and promised him commander in chief, he transferred the chief powers of the Ministry to the high command of the army and its chief, Keitel, became at the same time Chief of the Personal Staff of the Fuehrer. The defendant was to keep these functions until the moment of capitulation of the German armies. As chief of the high command of the army, Keitel did not exercise the direct authority over each of the three armies, constituting the Wehrmacht, the Land Army, the Aviation, the Navy, which were directly under Hitler. Charged more particularly with coordinating the matters affecting these three armies, he was the liaison agent between Hi tler and these three armies, but he was more than this. His role was above all that of advisor. He centralized the information that reached him from the different services under his orders, and this includes reports from the staff of operations confided to Jodl, information coming from the office of Admiral Canaris, the reports from the economic department of the armed forces of General Thomas, the administrative, financial and juridical services. However personal and authoritative Hitler's methods of work have been, they did not exclude the regular and constant participation of Keitel in the acts of his master. It is he who was in a position to carry out the demands of his chief,

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to suggest, to prepare, or to modify his decisions.

If one considers his functions as a member of the Defense Council of the Reich, as member of the Secret Cabinet Counsel and of the importance of their political character, it is easy to realize the scope of the role played by the defendant in all the domains, whether it has to do with the preparation of military plans, properly speaking, of the life of the German army, or its behavior, or the distribution of manpower, or the utilization of the economic resources of Germany.

Whenever a meeting was held in the general headquarters or at the Chancellory, Keitel was present. He was present at the time when Hitler made capital decisions. He was present by his side on the marches into the countries to be annexed and when orders by Hitler had to be transmitted, he in turn would order developing of the ideas of his chief and bring to these orders his personal contribution.

In signing or countersigning Hitler's decrees, Keitel added nothing to the validity of these texts from the point of view of the positive law of the Third Reich but he thereby guaranteed to Hitler their utility for the Wehrmacht and their unscrupulous execution. It was in this particularly, and notably, that he engaged his responsibility.

Like Keitel, Jodl was of those men who staked their chances to the success of the new regime and of its creator. His attitude, his orders, and his activity reveal that he was a general of political Aspiration, attached to Hitler, who showered him with favors. Assuming the direction of the general staff of operations in the high command of the army, he also took an active part, an active and important part in the elaboration and orders of his chief.

Indeed, Hitler incarnated all will, but the two accused who, during the hostilities, shared his every day life, provoked his decisions, elaborated them and assured their execution. This role as counsellor, Jodl fulfilled, although his theoretical competence was far from having the importance of that of Keitel, which does not prevent him from intervening in realms which went beyond the framework of pure operations and in which he likewise engaged his personal responsibility.

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This responsibility of the two defendants bears, in the first place, on the preparation and on the execution of plans of aggression. We shall not return to this point. In this matter our British colleague, Mr. Roberts, has perfectly brought out the role played by Wilhelm Keitel and Alfred Jodl and we shall consider more particularly their responsibility in the conduct of the war, properly speaking; and first of all, their responsibility in the matter of murder and ill treatment of civilians, of collective sanctions and the murder of hostages.

From the beginning of the war and as the occupation of new territories by the German armies progressed, there appeared with them measures against the civilian population, in violation of the laws of war and of the law of nations. They extended these violations, they extended apparently most benign violations to the services, sanctions, to execution, the most inhuman executions and the most useless.

If one turns to the countries of the West, towards Norway, towards the countries of the West, one finds everywhere the same reaction, the same unscrupulous execution of the same directives. On the 16th September 1941, Keitel signed an order relative to the repression of Communist insurrectionary movements in the occupied territories. This is document 389-PS. If the Tribunal will permit me, I choose to read briefly from this document. Keitel's directives are the following: "In every case of insurrection against the German occupying power, without consideration for circumstances, of detail, every such case shall be attributed to a Communist initiative. To choke the uprising in the bud, the most severe measures shall be taken at the first occasion in order to assure the authority of the forces of occupation and to present an extension of such movements. Moreover, it must not be forgotten that in the countries in question, the value of a human life is less than nothing and that effective intimidation can be achieved only an unaccustomed rigor. In reprisal for the death of a German soldier, the penalty of death of fifty to one..."

THE PRESIDENT: We have had this read already.

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M. QUATRE: Yes, sir. I am sorry, Mr. President. On the 5 May 1942--turning more particularly toward Belgium and France -- Keitel ordered for these two countries seizures and executions of hostages. These were to be chosen among the Nationalists, the Democrats, and the Communists. This is document RF 1433, 1590-PS, the original of which is now in the hands of the prosecution of the Union of Soviet Socialist Republics, which will not fail to submit it in the course of its presentation. This order merely confirms previous directives sent in August and September 1942, orders of the commander-in-chief in France, General von Stuelpnagel, that had already as its object the execution of hostages. This is document RF 1434, 1539-PS, submitted 29 January, by the French prosecution under No. RF 294.

To impose calm in the occupied territories and to protect the members of the German Army, to protect the German army from all violent attempts, Keitel did not hesitate to violate the stipulations of Articles 46 and 50 of the Hague Convention, which prohibited on the part of the occupying power the use of all means of constraint, of reprisals of a collective character and which, on the contrary, imposed respect for the lives of individuals; and these were not violations of an isolated character. In all the occupied countries the same acts are repeated.

These preventive arrests became elevated to the state of a system. They respond well to the aim that the high command had imposed upon itself, not of that of assuring in this manner a certain attitude on the part of the population which should be of military interest.

The terms of document RF 1433, which I have just quoted, are without ambiguity. "It is herein advised that all military commanders are advised always to have at their disposal a certain number of hostages of different political tendencies. It is important that there should be among them leading and well-known persons; according to the place of the guilty, hostages of the corresponding groups are to be shot in case of an attempted violence." This setting up of a rule of terror was to find its whole development in the ordinance of the application of the decree "Nacht und Nebel", which was issued by Keitel on 12 December 1941. This is document RF 1436 which I submit today,

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document 669-PS. If the Tribunal will allow me, I will read a few characteristic lines indicating Keitel's intention.

THE PRESIDENT: I think we had it more than once already. I think we had it more than once already.

M. QUATRE: I excuse myself, Mr. President, and I shall go on. This is the original of the deportation to France, among other countries, which has made some heavy attributes. It is not necessary to insist. We know the treatment inflicted upon the women and the men, torn from their families, their homes, in contempt of all rights and laws and the atrocities committed upon them are present to all minds.

Let us likewise call attention to Document RF 1437, UK 20, submitted 9 January 1946. That is an order of 26 May 1943, signed in his name, "Keitel," in paragraph 3, and provides that detailed investigations are to be made in given cases regarding the parents of Frenchmen who are fighting for the Russians; to find out if these parents reside in the occupied zones of France. If the investigation reveals that these relatives have given aid to facilitate their flight from France, severe measures are to be taken.

On 22 September 1943, the high command of the army, over the signature of Jodl this time, sent to the commander-in-chief in Denmark, a telegram which is interesting from two points of view. It is document FR 1438, UK 56, already submitted on 31 January 1946, under No. RF. 301. The first paragraph authorizes the enrolment of Danish Nationals in the military formations of the occupying army, in SS formations. Aside from the fact that this is contrary to the respect and honor of individuals, it goes against the terms of the preamble of the Hague Convention, which stipulates that in cases not included in the regulatory provisions, the population and the belligerents remain under the safeguard of laws of humanity and the exigencies of public conscience. This attempt at Germnization ignored completely the exigencies of public conscience.

As for the second paragraph of this telegram which ordered the deportation to Germany of the Jews of Denmark, it is the application of the general principle of deportation of Jewish populations which was to lead to their

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complete elimination. The Tribunal is sufficiently informed on this point so it is unnecessary to insist upon it.

I reach now the unjustified devastations, destruction of cities, towns and villages. Page 20 of my presentation. The policy of terrorism which the German armies had in France against the forces of the Resistance, against the FFI went beyond all measures and their anger was turned no longer against the resistance themselves but against the inhabitants of villages and towns suspected of having given asylum to these FFI, as having given them assistance; and I quote in this connection from a brochure which was put out by the high command of the army under date of 6 May 1944, bearing the name of the chief of the OKW, the signature of the Defendant Jodl. This is document FR 1439, formerly FR 665, submitted 31 January 1946, under No. RF 430. The paragraph 161 of this notice reads as follows: "The cleaning out of villages suspected of concealing bands necessitates experience. The Forces of the Security Service, SD, and the Secret Police of the countryside are to be used. The real aids of the bands are to be recognized and seized with the utmost energy. Collective measures against the population of entire villages, among which measures the burning of localities can be ordered only in exceptional cases and exclusively by division commanders or chiefs of police and of SS." Page 21 of my presentation. But the Defendant Jodl, what he had prescribed as an exceptional measure, was in the Spring and in the Summar of 1944 to become a common rule. Actions of isolated character at the moment of the signing of this notice, they now became actions of great scope, ordered and carried through by units of the army, supported in violation of the law of nations by forces of the security service and the secret police of the countryside.

Under the pretext of investigations, of reprisals against the local elements of the Resistance, German officers and soldiers unscrupulously observed the orders given by the chief of the general staff of operations, and it was thus that the falling back of the German armies in France was measured by those cities and villages, henceforth indeed, which among others, bear the names of Oradour-Sur-Glane, Maille, Cerisay, Saint-Die, and Vassieux-en-Vercore.

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Jodl bears the weight of these cleanup operations which began by the most arbitrary arrests and reached the stage of tortures, massacre, generalized massacre of the inhabitants, men, women, old people, children, infants, to the pillaging and burning of these localities; no discrimination among the inhabitants, all, even the youngest children were "auxiliaries." Never have the necessities of war justified such measures, which constitute many violations of Article 46 and 50 of the Hague Convention.

I come now to page 23 of my presentation, to the mobilization of civilian workers and to the deportation of civilians for forced labor. The decree of appointment of Sauckel in the capacity of general, mandatory for the utilization of manpower, under date of 21 March, 1942, bears the signatures of Hitler, Lammers, Chief of the Reichschancellory and of the defendant Keitel. This is Document FR 1440 , 1666-PS, submitted on the 12 December 1945, under No. US 208 by the American prosecution.

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It stipulates in the first paragraph the recruiting of civilian labor force to the end of its utilization for the German war industry and particularly for the armament industry. There were to be submitted under this obligation all workers not employed in Germany, in the protectorates in the general government, and in all the occupied territories. This is a violation of Article 52 of the Hague Convention.

On the 7th of November, 1943, in the course of the same speech that we have alluded to earlier, the Defendant Jodl, speaking of the tasks which were incumbent upon the populations of the territories occupied by Germany, declared in Document RF 1431, which I quoted some time ago, it states:

"In my opinion the time has come to take action without scruples rigorous and resolute measures in Denmark, in Holland, in France and in Belgium, in order to force millions of idle people to execute work on fortifications, which is more important than any other work. The necessary orders for this have already been given."

Sauckel does not express himself in any other way. Jodl, also, becomes the champion of this requisition of services to utilize for military ends profitable to Germany alone the potential labor of the Western occupied territories.

It matters little that the Hague Convention prohibits such procedures. The concern with the triumph of Germany, total war, for him too, comes before respect for international conventions on the usages of war.

I now come to the responsibility of the defendant Keitel in the realm of economic and artistic pillaging. I shall be extremely brief. I point out to the Tribunal three documents which have already been submitted to it. I simply refer to them, Document RF 1441, FA 1, submitted yesterday by my colleague of the economic section. This is document RF 1437-PS, submitted by the American prosecution under Number US 379 and finally RF 1433, submitted yesterday under number RF 1310.

I shall simply, in this matter, submit today before the Tribunal a brief letter of five lines, addressed by Keitel to the Special Staff Rosenberg, Chief of the Einsatzstab. This is RF 1444, Document 148 PS, which reads as follows:

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"Very Honored Minister:

"Having received your letter of the 20 of February, I inform you that I have charged the High Command of the Army to make an agreement in accord with your delegate and the necessary decisions for the work of the special commando services in the territory of these operations."

It can therefore be said that the activity of Rosenberg was accompanied, from the beginning, by the most constant assistance of the Army and it is in this way that Keitel himself brought his personal contribution on the artistic looting of France and of the countries of the West.

These pressures at the beginning, were surrounded by an appearance of juridical justification. They did not take place by virtue of a law but as a simple guarantee for the future negotiations of peace. But these measures quickly degenerated into a generalized spoliation of the art treasures of all kinds possessed by these countries of the West, in violation of the stipulations of Articles 46, 47 and 56 of the Hague Convention, which forbids the confiscation of private property, pillaging andseizures of works of art and scientific works by the members of the occupying Army.

I have now come to the last important part of my declaration, which concerns (page 28) the violations of conventions and laws of war relative to war prisoners. In this field, in particular, Keitel and Jodl have made themselves guilty of particularly unjustified measures, contrary to the laws of war and it is first of all, a violation of Article 6 of the Annex to the Hague Convention, which stipulates that work carried out by war prisoners shall not be excessive and shall have no connection with war operations.

Now, in a memorandum signed by his orders, under date of 31 October, 1941, Keitel, as Chief of the OKW, forces to work, related to war operations, the Russian war prisoners interned in the Reich. This is proved by Document EC 194, submitted by the American Prosecution on 12 December, 1945, under Number US 214. In this text Keitel expresses himself thus:

"The Fuehrer has just ordered that even the work capacity of Russian war prisoners shall be broadly used for wholesale uses for the war industry."

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Immediately there follows the setting up of a program of incorporating these prisoners into the German war economy. This document, it is true, is in 1941 and concerns itself only with Russian war prisonersbut beginning 21 March, 1942, the use of all war prisoners for purposes of the German war industry, and particularly for the armament industry, is carried out, The decree appointing Sauckel to the post of General Plenipotentiary for Labor, for manpower, which has already been referred to provides, likewise, for the use of all war prisoners in the German armament industry. This is shown by Document 1666 PS, which reveals this violation of Articles 21, 26, 27, 31 and 33 of the Geneva Convention.

One month later, on the 20 of April, 1942 Sauckel expressed himself thus, in his program of mobilization of a labor force, Document RF 1446, 016 PS, submitted 11 December, 1945 by the American Prosecution, under Number U.S. 208:

"The utilization of all war prisoners and the use of a gigantic number of new civilian workers from abroad, men and women, has become an undoubted necessity for the solving of the mobilization of the labor program in the course of this war."

It is in this way that under date of 6 February, 1943, as he announced in a speech which he made at Posen, Sauckel succeeded in incorporating into the war economy of the Reich 1,658,000 war prisoners, as Document RF 1447 reveals. This is also Document 1739-PS, submitted by the French Prosecution under Number RF 10. The 1,658,000 war prisoners were distributed thus: 55,000 Belgians; 932,000 French; 45,000 British; 101,000 Yugoslavs; 33,000 Poles; 488,000 Russians; others 4,000, making a total of 1,658,000.

This placing at the disposal of the German war economy so great a contingent of war prisoners implies a perfect collusion between the labor services under Sauckel and Keitel, Chief of the OKW, responsible for this reservoir of manpower and responsible for its utilization.

These flagrant violations of the Hague Convention and of the Geneva Convention were to be accompanied by measures inspired or authorized by the defendant of a character even more serious in the sense that they no longer

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violated the rights of prisoners of war but were susceptible of entailing physical assaults against persons, which went to the point of death and these violations bear on the following points:

First of all, the violation of security, Document RF 114-38, submitted 30 January, 1946, which presents us with a report drawn up for the services of the High Command of the Army. It relates to the American and French Air Forces. The Staff of Operations of the Luftwaffe proposed this set-up, to obtain, through the presence of these imprisoned aviators, protection for the population of the interested cities against eventual attacks of the Anglo-American aviation.

In order to set this up, the General Staff of the OKW, in the person of Jodl, expressed a favorable opinion,

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considering that there was no conflict with international law if one limited oneself to the setting up of new camps.

If we did not know the fundamental reason for this resolution we might believe, like the defendant Jodl, that there is present no conflict with international law. But this measure has to do, above all, as the first lines of this document specify, this measure has to do first of all with the assuring of protection to the German urban population. The Allied war prisoners are but a means for warding off the eventual air attacks and to this end there is no hesitation in aggravating their condition and exposing them to the dangers of war. This is a grave violation of the obligation of security, which the Geneva Convention in Article 9 imposes upon the power which holds prisoners of war within its charge.

And Keitel annotates this document with only two words: "No objections." These words are followed with the initials of his name.

I now come to the measures taken against escaped prisoners. The character of these measures was to assume a particular gravity. This is what Document RF 1449 reveals to us, Document 1650-PS, submitted on the 16 of December, 1945 by the American Prosecution under Number RF 246. The Tribunal is sufficiently informed as to this and it is not necessary, I think, for me to read it.

This document reveals to us the "Kugel Aktion" was thought up in order to put an end to the escapes of officers and non-commissioned officers. It had no aim but to confine to police organizations -- to hand over escaped prisoners to police officers through the handling of official orders and reports. But this special treatment, as you know, is no other than that of extermination. Yet, in the terms of Article 47 of the Geneva Convention, only disciplinary penalties, in this case arrests, can be inflicted by the authority upon escaped prisoners of war. Keitel did not hesitate to abandon these means for more radical ones.

DR. NELTE (Counsel for Defendant Keitel): The French Prosecutor is about to refer to a document which is in the document book under RF 711 and has been presented to the Court. This document is marked as a summary of an interrogation of the German General Westhoff and it is an especially hard reproach against the defendant Keitel, that is to say, it is about the execution of

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British R.A.F. officers, who had escaped from the Camp of Sagan.

I protest against the use of this document as proof for the following reasons:

First, the document is no affidavit but only a summary report about statements of General Westhoff.

Second, the report has not been signed by the interrogator. It is not signed at all but has only the remark of the translator.

Third, from that document you cannot see who its author is, that is, the author of this report.

Fourth, furthermore, you cannot see from that report whether General Westhoff has been questioned personally.

Fifth, General Westhoff is now, inasmuch as I can say, right here in Nurnberg.

Sixth, there is a memorandum or a protocol as to the interrogation of General Westhoff.

For these reasons I ask the Court to examine whether that document, which is marked as a summary of an interrogation, can be used as proof.

THE PRESIDENT: Where shall I find the document?

M. GUATRE: Mr. President: I should like to say I shall be in a position this evening to furnish the Tribunal with the minutes of the interrogation of General Westhoff, accompanied by an affidavit by Sir David Maxwell-Fyfe. I received this document at the last moment and I didn't introduce it into my document book but I shall be able this evening to produce this for the Tribunal.

THE PRESIDENT: Well, what do you say to the various points that have been raised by Dr. Nelte?

M. QUATRE: Mr. President; I recognize perfectly the basis of the request by the Defense and, as I said a moment ago, I shall be in a position at the end of this session to produce before the Tribunal the complete minutes of the interrogation of General Westhoff, the complete minutes, accompanied by an affidavit by Sir David Maxwell-Fyfe.

I wish to excuse myself for not being able to produce it at the moment. I received these minutes too late and for those reasons was not able to insert it in the document book.

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THE PRESIDENT: The Tribunal considers that the document which you have submitted to us cannot be admitted. It is a mere resumé. The Tribunal thinks, also, that it can only allow the interrogatory to be used if a copy of it is handed to the Defendants' Counsel and the witness who made the interrogatory is submitted to the Defendants' Counsel for cross-examination, if they wish to cross-examine him. Otherwise you must call General Westhoff and examine him orally. Is that clear? I will repeat it if you like.

The document you have submitted to us is rejected. You can either call General Westhoff as a witness, in which case, of course, he will be liable to cross-examination or you can put in the interrogatory and after you have supplied a copy of it to Defense Counsel, then General Westhoff, who made the interrogatory, will be liable to cross-examination by the Defense Counsel.

SIR DAVID MAXWELL-FYFE: Would the Tribunal allow me to intervene for one moment?

The document to which my learned friend referred a moment ago, as having been certified by myself, is a report of the United Nations War Crimes Commission, which I received from the Chairman, Lord Reith, and certified as such a report. It therefore, in my respectful submission, becomes admissible under Article 21 of the Charter.

It is not merely a transcript of the interrogation. That is the document to which my learned friend referred and that is available and can be procured quite shortly.

THE PRESIDENT: Sir David, I follow that point, but at the same time that does not altogether meet the situation. If it is true that General Westhoff is in Nurnberg at the present moment it would scarcely be fair that a document of that sort should be put in unless the person who made the statement or from whose interrogatory the statement was composed was submitted for cross-examination.

SIR DAVID MAXWELL-FYFE: With the greatest respect, my Lord, I should like the Tribunal to consider that point because the Tribunal has not got the document in front of it but it is a report to the United Nations War Crimes Commission, based on the interrogatory. It therefore, in my respectful submission, becomes admissible as a report within the actual words of Article 21 and therefore is a

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matter which the Tribunal shall, under the Charter, take judicial notice of.

THE PRESIDENT: Would your submission be that the right course would be to take that report into consideration and leave it to the defendants if they wished it, to call General Westhoff?

SIR DAVID MAXWELL-FYFE: That would be my submission -- that is my submission because of the effect of Article 21 or the course which is contemplated in view of the special powers and special validity given to such reports by Article 21.

THE PRESIDENT: The Tribunal would like to know whether the interrogation was made by the Prosecution in Nurnberg?

SIR DAVID MAXWELL-FYFE: I am told that the interrogation was made in London. I did not know that General Westhoff was in Nurnberg. I will make inquiries on that point.

THE PRESIDENT: Sir David, were you able to inform us whether or not the interrogation was made in Nurnberg or in London?

SIR DAVID MAXWELL-FYFE: I am told it was made in London.

THE PRESIDENT: Do you know where the witness is now?

SIR DAVID MAXWELL-FYFE: I did not know he was in Nurnberg until your Lordship mentioned it. But I can easily verify that point.

DR. NELTE: Last week I received a letter from General Westhoff from the prison here in Nurnberg with answers to several questions. He was here last week.

THE PRESIDENT: The Tribunal will adjourn now.

(A recess was taken from 1520 to 1540)

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SIR DAVID MAXWELL-FYFE: I wonder if I might just add one or two words to clarify the position.

I do this because this is a matter to which the British Government in particular attached very great importance.

The disposition was that last September, from the 25th of September, the British Government sent a full report of this incident to the United Nations War Crimes Commission. That report included statements before a court of inquiry, statements of allied witnesses, statements taken from German witnesses including General Westhoff, copy of the official lists of the dead and a report of the Protecting Power. All that was sent by the British Government to the United Nations War Crimes Commission last September, and the statement of General Westhoff, which I certified as being a report of the United Nations War Crimes Commission, was part of an appendix to that report which was then in the custody of the United Nations War Crimes Commission, and of which a copy was sent to me here.

I provided that to my French colleagues and that refers to an earlier report made by General Westhoff at an interrogation which took place in London as a part of the matter of that report.

The document which my learned friend was adducing today was a summary of a subsequent interrogation of General Westhoff taken in Nurnberg.

My Lord, I wanted to get the position perfectly clear, if I could, to the Tribunal -- because, as I say, the incident is one of some importance and the British Government's report will be, I hope, tendered the Tribunal by my Soviet colleague, as the incident lies to the east of the line which we have drawn through the centre of Berlin and therefore falls within the Soviet case.

But I don't want the Tribunal to be under any misapprehension as to the nature of the earlier report that was made, the one which my learned friend referred to as being able to put in later should the Tribunal require it.

THE PRESIDENT: But you are agreed that the document which is now being offered to the Tribunal is not a Governmental document within Article 21 of the Charter?

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SIR DAVID MAXWELL-FYFE: I quite respectfully agree that that is not really the document on which I intervened. I intervened on the second one.

THE PRESIDENT: At this stage we are not concerned with that, only with the document offered in evidence to which document nobody objected, and that document is not a Government document within Article 21.

SIR DAVID MAXWELL-FYFE: That I understand is so, but I was really intervening to explain that the second document comes--

THE PRESIDENT: I quite understand, yes.

The Tribunal allows the objection of Dr. Nelte. It considers that the document which has been submitted is not a Governmental document within Article 21 of the Charter and is therefore rejected. The Tribunal adheres to the decision which I announced just before we adjourned, namely, that if the Prosecution desired to do so, they can produce the interrogation of which the document submitted to them is a resume, and if they do so, then they must produce the witness, General Westhoff for cross-examination by Defendant's Counsel. And they must also give a copy of the interrogation to the Defendant's Counsel. In the alternative, they can produce and call General Westhoff himself and then, of course, he will be liable to cross-examination by the Defendant's Counsel.

M. QUATRE: I take cognizance of the statements of the Tribunal, and I should like to state that I am anxious to avoid the difficulties which have arisen during this session today.

We won't speak now of this document, but simply point out to the Tribuna that if the opportunity comes later at the time of the interrogation of the Defendant, at that time we may like to summon General Westhoff. May I continue, Mr. President?

THE PRESIDENT: You may.

M. QUATRE: I had reached, gentlemen, page 36 of my brief, concerning the treatment of Allied aviators who were prisoners.

This point had already been discussed at some length before you --

THE PRESIDENT: Perhaps I ought to say that the Tribunal will be willing to sit this evening until half-past five, in order that the case against the Defendant Hess may be concluded, but it is very important that the case should

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be concluded tonight, against the Defendant Hess, because the Soviet Prosecution will require the whole day for their presentation tomorrow.

M. QUATRE: Mr. President, I shall be very brief. I shall go immediately to the conclusion. I shall say nothing concerning the treatment of Allied aviators. You know the circumstances, as well as the treatment of commando troops, and I once more beg the Tribunal's pardon for having been so lengthy. I shall conclude now.

It is indeed definitely the notion of criminal intention which was present in the planning and drawing up of orders and directives which have just been examined. Just as one could not deny the reality of the acts perpetrated as a result of these decisions, we must not overlook either, or underestimate, this moral element by which French penal law to use the formula of an eminent jurist, qualifies the acquaintance by the agent of an illicit character of the acts which he accomplishes. This knowledge of the illicit character of the orders which they knew would be followed scrupulously or carried out scrupulously, was one of which the two Defendants were fully cognizant. The systematic rejection by them of the laws and customs which were to attenuate the rigor of war, the establishment of the guiding principle of the most barbarous methods are with Keitel and Jodl the reflection of the precepts and the norms of National Socialism and its leader, for whom any international law, any convention, any ethical law, was an unbearable restraint, which would prevent them from carrying out the desired end and henceforth would put an obstacle to the superior interests of the German community. It is not a matter of indifference to know whether Keitel and Jodl were driven on by the desire to carry out their mission or whether, faithful to the traditional pan-Germanism of the General Staff, they yielded to the National Socialist myth, in the desire to see blossom one day the bold pretensions of Germany.

What counts especially to us is the personal contribution which they made of their own volition and knowingly to the destructive undertaking carried out by the Third Reich.

For ten years Keitel was the "kingpin" of the German Army and from 1936 Jodl continued to be his collaborator. Before the war they worked for

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the war. And during the war they deliberately flouted the rules of law and justice, the only safeguards for men who struggle. In the most scornful manner they ignored the dignity of mankind and thus failed to do their duty as soldiers. "Nacht und Nebel", the bullet action or "Kugel Action," the "Sonderbehandlung," the destruction of our cities -- all this will remain forever associated with the names of these men, particularly the name of Keitel who proclaimed that human life was less than nothing.

And at this moment we cannot help thinking and directing our thoughts toward the innumerable absent ones who for that sacrificed their life.

LT. COL. GRIFFITH JONES (For the British Prosecution): May it please the Tribunal, it is my duty to present the evidence upon Counts One and Two of the Indictment, against the defendant Hess.

My Lord , the Trial Brief, which I believe the Tribunal has before them, has been made out in the form of a fairly full note of the evidence to wh I intend to refer, and it may be of convenience to the Tribunal to have it before them during the court sitting.

May I first prove the positions which he held and which are set out in Appehdix A of the Indictment, and say a word about his early life.

This Defendant was born in 1894. He is now 52 years old. He served in the German Army during the last war and in 1919 he went to Munich University. There he became the leader of the Nazi organization in that university and in 1920 he became a member of the Nazi Party itself. He was among the first of the SA, and he became the leader of the students' corps of police. In 1923 he took part in the Munich putsch and as a result of that he was sentenced to 18 months in prison. Half of that period he served in jail with Hitler himself. I stress that, because it was during those seven and one-half months in prison with Hitler that Hitler dictated "Mein Kampf."

THE PRESIDENT: Have you got --

LT. COL. GRIFFITH JONES: I think I know what the difficulty is. This case was originally scheduled to be presented by the American Delegation and they did have a brief of their own. It may be that that is the brief which Justice Biddle has before him. I will hand you up a spare copy.

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THE PRESIDENT: Yes, you may go on.

LT. COL. GRIFFITH JONES: It was during that time that Hitler dictated "Main Kampf" to this Defendant.

Now, dealing with his actual appointments: From 1925 until 1932 he was private secretary and ADC to Hitler. In 1932 he became the chairman of the Central Political Committee of the Party, in succession to Gregor Strasser. In March, 1933, after the Nazi Party became a power, he became a member of the Reichstag, and in April of that year he was appointed Deputy to the Fuehrer, a position which he held until he flew to England in May of 1941.

That evidence so far is all contained in two documents, one a book called, "Dates of the History of the Nazi Party," by Volz, which is already in evidence as No. PS-3132 and was put in evidence as US-952. Deutsches Fuehrer Lexicon, PS-3191, US-593.

On the first of December, 1933, he became Reich Minister without Portfolio, another position which he held throughout the remainder of his time in Germany. That appears in the Reichsgesetzblatt. It is PS-3178 and it goes in now as GB-2478. On the 4th of February, 1938, he became a member of the Secret Cabinet Council. My Lord, that is PS-1389, and becomes GB-2479.

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On the 30th of August 1939 he became a member of the Council of Ministers for Defense of the Reich, Document PS 2018, which becomes GB 250. On the 1st of Spetember 1939 he was appointed successor designate to the Fuehrer, after Goering. Goering, it will be remembered was successor No. 1, and during that time he held the positions of Obergruppenhuehrer in the SS and in the SA.

That completes the formal proof of the positions charged against him in the indictment. I would say a word upon the authority he exercised under and holding these positions. The Tribunal will remember that in appointing Hess as his Deputy the Fuehrer decreed, in the decree by which he made the appointment, as follows: "I hereby appoint Hess as my Deputy and give him full power to make decisions in my name in all questions of party leadership." The extent of his office as Deputy Fuehrer can be seen from the party Year Book of 1941, to which I would briefly refer the Tribunal. It appears on page 104 of the Tribunal's Document Book. It is PS-3163 and has already been put in as U.S. 255. I quote from that Year Book:

"By decree of the Fuehrer of April 21, 1933, the Deputy of the Fuehrer received full power to decide in the name of the Fuehrer all matters concerning Party leadership. Thus, the Deputy of the Feuhrer is the representative of the Fuehrer, with full power over the entire leadership of the National Socialist German Workers Party. The office of the Deputy of the Fuehrer is therefore an office of the Fuehrer. In essence, it is the duty of the Deputy of the Fuehrer to direct the basic policies of party work, to give directives, and take care that all Party work be done according to National Socialist principles. All the threads of the Party work are gathered together by the Deputy of the Fuehrer. He gives the final party word on all intra-Party plans and all questions vital for the existence of the German people. The Deputy of the Fuehrer gives the directives required for all the Party work, in order to maintain the unity, determination, and striking power of the National Socialist German Workers Party as the bearer of the National Socialist philosophy. In addition to the duties of party leadership, the Deputy of the Fuehrer has far-reaching powers in the field of the State. These are participation in national and State legislation, including the pre-

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paration of Fuehrer orders. The Deputy of the Fuehrer in this way validates the conception of the party as the guarder of National Socialist philosophy.

"Two, approval of the Deputy of the Fuehrer of proposed appointments for official and labor service leaders.

"Three, securing the influence of the party over the self-government of the municipal units."

I would refer the Tribunal to page 119 of the Document Book, which is a chart that sets out the organization of the Deputy of the Fuehrer's office. It appears on page 119 of the Document Book. It is PS-3201, which becomes 251 CB. I would particularly refer the Tribunal to the square in the center, showing the liaison officer of the Wehrmacht, and showing his close association with the army; and in the right-hand column at the top "Chief of the Foreign Organization," of which I shall tell the Tribunal in a moment; "Commissioner for Foreign Policy", showing his concern with the foreign policy of the German State; "Commissioner for all technicological matters and organization;" "Commissioner for all University Matters"; "Commissioner of University Policy", showing his concern with the education of Germany; and further down "Office for Racial Policy", showing his comcern with the anti-Jew policy of the Nazi Government that followed; and at the bottom again "Specialist on Education."

But a glance at that chart will show that he was really involved in every aspect and every branch of Nazi life and the organization and administration of the State. As Reichsminister without portfolio, in the law to secure the unity of Party and State of lst of December 1933 it was states that his task was to guarantee the close working cooperation of the party and the SA with public authority. Put in as 1395, it becomes 252.

He acquired wide legislative powers, as it has already been seen from the extract which I have read from the Nazi Year Book of 1941. I would particularly draw the attention of the Tribunal to a decree of Hitler's dated 27 July. The extract which I wish to quote is set out in the trial brief. It has already been read and therefore I will do nothing now other than to draw the attention of the Tribunal to it. The document is D 138 and has been put in as

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U.S. 403. By the law for the protection of people in November 1933, it will be remembered that Hitler and his cabinet obtained for themselves full powers of legislation, independently of the Reichstag, and this defendant, being a member of the cabinet, of course shared in these powers.

His approval of that procedure can be seen from a speech he made on the 16th of January 1937, and a short extract is again set out in the trial brief that the Tribunal has before them.

"National Socialist has seen to it that vital necessities of our nation can today no longer be torn to peices by a Reichstag and made the object of the haggling of parties. You have seen that in the new government decisions of historic scope are made by the Fuehrer and his cabinet, decisions which in other countries must be preceded by parlimentary debates lasting weeks and weeks."

That last extract is taken from Document PS-2426, which becomes 253. That these powers and offices were no sinecure is clear from Hess's own order which he issued in October 1934. I will not read it now because it has already been read. It is D 139 and was put in as U.S. 404, and the Tribunal will remember that he is there issuing a decree showing he has been given the right to participate in legislation by the Fuehrer, and any office that is promoting legislation, in which he therefore ought to take part, must let him have the draft in time to take effective action on it if he disapproves of it.

I think again the extract I have read from the Year Book sufficiently describes the powers that he had without my referring to more than two other documents upon this matter. On page 5 of the trial brief it will be seen that he acquired powers and took part in the organization and production under the 4-Year Plan. I quote from a lecture given by the defendant Frick on the 7 March 1940, which is PS-2608 and which as already been put in as 714. But the short passage that I quote now was not actually read. In that lecture Frick said:

"In order to guarantee the coordination of the various economic agencies of the 4-Year Plan, those agencies were formed into a general council, under the chairmanship of Goering. Its members are the State Secretaries of the agencies working in the field of war economy, the Chief of the Military Office

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of Economy, and a representative of the Deputy of the Fuehrer."

Lastly, a quotation from the National Zeitung of the 27 of April 1941, which is M 102 and becomes GB 254. My Lord, it appears on page 4 of the trial brief. I quote these passages, set out simply to save the Tribunal's time in referring to the Document Book. It does appear on page 12 of the Document Book if the Tribunal desires to refer to the full extract.

"A long while ago" -- it was still before the outbreak of the war -- Rudolph Hess was once called the 'Conscience of the Party. If we ask why the Fuehrer's Deputy was given this undoubtedly honorable title, the reason for this is plain to see. There is no phenomenon of our public life which is not the concern of the Fuehrer's Deputy. So enormously many-sided and diverse is his work and sphere of duty that it cannot be outlined in a few words; and it lies in the nature of the obligation laid on the Fuehrer's Deputy that wide publicity hears little of the activity of Rudolph Hess. Few know that many government measures taken, especially in the sphere of war economy and the Party, which meet with such hearty approbation when they are notified publicly, can be traced back to the direct initiation of the Fuehrer's Deputy."

Perhaps I ought to remind the Tribunal that in the decree appointing a secret cabinet council, that council was appointed by Hitler to advise him in the conduct of foreign policy. The Tribunal will find attached to that document book a few photos. They are of little importance. They were really to emphasize or remind the Tribunal of the film that was shown earlier in the course of these proceedings, when, it will be remembered, the defendant Hess appeared in practically every scene of that film "The Rise to Power of the Nazi Party." These photographs are not actually photographs from that film; they are other somewhat similar and I produce an affidavit with them to state they were taken by Hitler's own private photographer. That affidavit becomes GB 255.

That, then, is the evidence of his position and of his authority, and perhaps I might be allowed to make one short submission upon that. I make it in respect of this defendant Hess, although it is perhaps a submission which can be made in respect of every one of these defendants.

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The Prosecution have presented these cases against the individual defendants in the form of a collection of documents which directly refer and directly connect these defendants with specific instances of participation in the various crimes that were committed by the German people. My lord, it will be my submission that it is sufficient, to justify and bring home the conviction of this man and his colleagues, to produce simply evidence of their positions in the Nazi State and the control of that State, and also the general evidence of the crimes which were committed by the German people. It is only perhaps now, at this late stage in the trial, as day by day the extent and scope of those crimes is becoming clearer, that we realize that they cannot have happened by themselves. Crime on that scale must be organized, co-ordinated, and directed. If the government of Nazi German, or the government of any country, is not the organization that directs and coordinates, what is? If the members of that government and the people who control and give orders to the members of the German nation who are committing those crimes are not the people responsible for them, then, in my submission, one is entitled to ask, Who is?

My Lord, there can be no question that these men had knowledge. Again, as the picture unfolds, it will be my submission that everybody in Germany must have had knowledge of what was going on, and if everybody had knowledge, then, my submission is, these men must certainly have had knowledge, and I would urge upon this Tribunal the fact that the conviction of these men does not rely upon the mere chance of how many documents happened to have been captured bearing their signatures. It might well have been that no documents at all had been captured. But, in the submission of the Prosecution, these men could equally well and equally justifiably have been proved guilty in the part they took, beyond any kind of doubt, upon the evidence of the positions they held and the evidence of the scope and extent of the crimes that were committed by the people they controlled.

My Lord, that is my submission, and in view of that, I would perhaps deal briefly, for the convenience of the Tribunal, with the many small matters that do directly connect him with, as I say, almost every aspect of the crimes and life of Nazi Germany.

I turn to page 6 of the trial brief:

DR. SEIDL: The Prosecuting Attorney just mentioned a sworn statement, neither in the Document Book nor in his presentation. I can, consequently, take no position in regard to this sworn statement. Nor can I investigate the questions that are brought up in it. According to the provisions of the Charter, I should like the Prosecuting Attorney to present me with this sworn statement ...

(The remainder of the interpretation of the statement of Dr. Seidl did not come through the headphone).

THE PRESIDENT: We couldn't hear the rest of the translation coming through.

DR. SEIDL: Mr. President, I am not sure how much of the translation you heard.

THE PRESIDENT: There is some document that you are saying is not in the Document Book?

LT. COL. GRIFFITH-JONES: The photographs were in the book. The affidavit by the photographer was my mistake omitted from the book, the original is here. I will produce a copy for Dr. Seidl, and I regret it was not done before. It was not a very important document.

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My Lord, it might be expected that, in the positions he held, the defendant Hess took a leading part in the acquisition of power by the Nazi Party and in their consolidation of control over the State. By the law of the 1st of August the office of Reichspresident --

THE PRESIDENT: 1934?

LT. COL. GRIFFITH-JONES: 1934, yes. (Continuing) and of Reichschancellor were joined together under Hitler. Hitler held both offices. That decree was signed by others and by Hess. Hess also signed a decree on the 20th of December, 1934, a decree entitled "Laws of Treacherous Acts Against the State and Party." By Article 1 of that decree penalties were imposed upon anybody making false statements injuring the prestige of the government, the Party, or its agencies; and by Article 2 penalties were imposed for statements proving a malicious attitude against the party or its leading personalities. The decree was signed by Hess and it was Hess who had to issue the necessary regulations for carrying the decree into effect.

He took a leading part in the gaining of control over government appointments. I quote again in all these matters only a few examples. If one wanted to quote every decree that the defendant signed and every act he took in participation of these matters, it would really entail writing a history of the Nazi Party from 1920 until 1941 and a history of Germany from 1933 until 1941. Set out in the trial brief at page 7, it will be seen that there are various decrees, all signed by Hess; of the 24th of September 1935, a decree providing for his consultation in the appointment of Reich civil servants; 3rd April 1936, providing for his participation in the appointment of labor service officials; and I refer again to the 10th of July 1937, another decree under which he participated by having to be consulted upon the appointment or other minor civil servants.

With respect to the control the Nazi Party gained over the German youth, again there are various decrees signed by this defendant. I set out in trial brief particularly a reference to the book which has already been put in, Volz's dates of the Nazi Party, where it appears that he appointed a University Commission of the Party, which was under his supervision. The Tribunal will remember that we have already seen from the chart of his staff that he had a department dealing with universities and with

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teachers.

I am quoting from the same document. On the 18th of July, 1934, the Nazi League of Young Students was directly subordinated to the Deputy of the Fuehrer.

The defendant, as the Tribunal has heard, was an Obergruppenfuehrer himself in the SS and the SA. His responsibility for an association with those organizations can be seen from three documents. Amongst the papers found in the Krupp files was a circular sent by Hess, apparently to various industries, asking for funds or subscriptions for the Adolph Hitler Fund for German Industry. The document is D-151, which I put now as GB-256, and the relevant extract again is set out in the trial brief for convenience:

"The fund rests upon an agreement between the Reich management of the NSDAP and leading representatives of German industry:

Then its purpose is set out:

"To put at the disposal of the Reich leadership the funds required for the unified execution of the tasks which fall to the lot of the SA, SS, and other political organizations."

He signed a decree on the 9th of June, 1934.

For the convenience of the Tribunal, perhaps I should mention that that last document I mentioned can be found at page 5 of the document book.

On the 9th of June, 1934, he signed a decree by which the Security Service of the Reichsfuehrer SS was established as the sole political news and defense service of the Party.

On the 30th of December, 1938, he issued a decree by which the SD, which Himmler had established, was taken off the establishment of the Party, and it was, under that decree, to be organized by the SS. Those were both Hess decrees, and they are both the same document, PS-3385. They have become GB-257, and they appear at page 172 of the Tribunal's document book.

My Lord, there has already been given much evidence of the subversion of the churches in order to eliminate any hostile parties there may have been to the Nazi Party. Hess again took his share in that legislation, and there are set out in the trial brief, on pages 8 and 9, a series of decrees which have already been put before the Tribunal during the presenta-

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tion of the case against Bormann.

Bormann, it will be remembered, was at this time, and throughout, until Hess flew to England, Hess' deputy. Therefore, it will be my submission that decrees issued by Bormann as deputy for the deputy of the Fuehrer are, of course, the responsibility of this defendant as well.

For the sake of time, I believe the Tribunal has a reference to the decrees and will bear in mind the evidence that was offered against the defendant Bormann.

I come now, then, to his activity in the general persecution of the Jews. Again it will be remembered that the chart of his organization showed an office of his which described itself as the Office for Racial Policy. His own views about this matter are found in a speech which he made on the 16th of January, 1937, and which is reported in a volume of his speeches which is PS -3124. It is already in as GB-253. The extract I desire to quote is set out in the trial brief. The document can be found on page 98 of the document book.

"The organization of the NSDAP will be used for the enlightenment of the people in questions concerning race and health of the nation, and to increase the population. Just as in the homeland, so in foreign lands Germans influenced in the National Socialist sense are being educated in such a way as to make them proudly conscious again of the fact that they are Germans, to make them hold together and esteem each other. Thus, they are being educated to put Germans above the subjects of a foreign nation, regardless of their position or their origin."

Hess it was who signed the Law for Protection of Blood and Honor, one of the Nurnberg decrees of the 15th of September 1935. It is PS-3179. It is already in evidence as US-200. It will be remembered that under that decree and under the other Reich Citizenship Law of the same date, it was the Deputy of the Fuehrer who was to issue the necessary decrees and regulations for the carrying out and supplementing of those laws, the Nurnberg Decrees.

On the 14th of November 1935, it was Hess who issued an ordinance under the Reich Citizenship Law which deprived the Jews of the right to vote or to hod public office. That is PS-1417, and becomes GB-258.

By a further decree of the 20th of May 1938, those Nurnberg laws were extended to Austria, that law of extension again beging signed by this defendant. PS-2124, GB-259.

As I said, those are only a few examples of the decrees and activities of this man in the acquisition of power and consolidation

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of power in the Nazi Party. There are documents which I will hand up to the Tribunal that perhaps they might add to their document books, and there is a copy in German for the learned French Judge. There are examples in this and other exhibits which I have not mentioned now, but which are already before the Tribunal, put in when the case of Bormann was put before the Tribunal, for which, as I have already said, this Defendant must take responsibility.

You will see that under various headings--there are one or two German copies and the rest are in English--there are various documents set out under the headings, "Association with the SD and GESTAPO," "Subversion of the Churches," and again, "The Persecution of the Jews."

I turn then to the part which he played in the actual planning and preparation for aggressive war. We find that as early as 1932 he was concerned with the rearmament and reorganization of the Air Force. The Tribunal will remember a document, PS-1143, US-40, dated the 20th of October, 1932, which showed that a report on the preparation of material and training of air personnel to provide for the armament of the Air Force was sent to Hess by Rosenberg's chief of staff. That document, for reference, appears on page 43 of the Tribunal's document book.

That was in 1932. Throughout the years we find him connected with the rearmament of the German armed forces. On the 16th of March, 1935, it was Hess who signed the decree for the introduction of compulsory military service. On the 12th of October, 1936, in a speech that he made, he took up Goering's cry of "Guns before Butter," when he said:

"We are prepared in the future, if need be, at times to eat a little less fat, a little less pork, a few eggs less, since we know that this little sacrifice is a sacrifice on the altar of the freedom of our people. We know that the foreign exchange which we thereby save expedites the output of armaments."

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The phrase still holds good today--guns instead of butter.

That document is M-104. It becomes 260 and will be found on page 14 of the Tribunal's document book.

In May of 1941 he was making a speech at the Messerschmidt Works, of which occasion the Tribunal has already got a photograph before it. It was one of those four photographs we were looking at a moment ago. Then he said:

"The German soldier must understand that for the uniqueness and abundance of his weapons and his material, for these he must thank the untiring efforts for many years of Adolph Hitler."

A report of that speech appears in the Voelkischer Beobachter on the 2nd of May, 1941. It is M-105 and becomes GB-261. It is on page 15 of the Tribunal's document book.

One of the most important parts that this Defendant took in the preparation for aggressive war was his organization of the famous German fifth column. He was the responsible person, as Deputy of the Fuehrer, of the Auslandsorganisation of the Party, that is to say, the Foreign Organization of the Party. A history of that organization, a very brief history, will be found in an American state publication, PS-3258. It becomes 262-GB. It is on page 147 of the document book.

I would only mention now two matters. In October 1933 that organization was placed directly under Hess's control, and a year later it was Hess himself who gave it its present name of the Foreign Organization, Auslandsorganisation.

For the convenience again of the Tribunal a chart is set out in the organization book for 1938, which is PS-2354, US-430, and is on page 69 of the Tribunal's document book, and I think it is unnecessary to refer now in detail. It had the various offices, civil service offices, cultural offices, press propaganda offices, labor front offices, and the foreign trade offices, the various offices dealing with the German merchant marine, which afforded,

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of course, an excellent medium for spreading Nazi propaganda to every port through the world.

The Tribunal has heard a good deal about a somewhat similar organization of Rosenberg, the APA. Very briefly and in a word, I think the distinction between the two can be said to be that the APA was concerned with the enrolment and propaganda for non-Germans, for foreigners, whereas the Ausland Organization was concerned with Germans living abroad, who, of course, were to form the basis of fifth column activities in future years.

I think the Tribunal will see that there are set out under the heading, "Scope of the Organization's Work," two documents. I think that perhaps it is sufficient to refer to the first of them now, PS-3401, which becomes 263-GB, and which the Tribunal will find on page 173 of that document book.

THE PRESIDENT: Which page in the trial brief?

LT. COL. GRIFFITH-JONES: Page 12, my Lord.

That is an article from the Voelkischer Beobachter, which starts off by saying that, "National Socialism is an ideology which takes hold of our fellow Germans and strengthens them in holding fast to the German nature and customs," and then goes on to say that the place for the practical application of that policy and principle is the foreign organization of the NSDAP, which is directly subordinated to the Deputy of the Fuehrer Hess. I quote the last three lines of that paragraph.

"The work of the Foreign Organization is literally extended over the entire earth, and the following slogan could, with full justice, be displayed in its workroom in Hamburg, 'My field is the world.' The Foreign Organization, under the leadership of Gauleiter Bohle, who is aided by a large staff of experts and qualified co-workers, today includes over 350 national groups and bases of the NSDAP in all parts of the world, and in addition to this, is taking care of a large number of individual Party comrades in most varied

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places."

My Lord, in view of the time I will not refer to any further documents about the activity and the scope of that organization. They will be found as set out in the following document, PS-3258, which is at page 150 of the document book. That is 262, already in evidence. There is another extract from the British Basic Handbook on Germany, which is in the addendum to the document book. It is not, I think, actually put into the Tribunal's brief. It appears under Exhibit number M-122, and becomes GB-264.

Two of the various other organizations which were run by the Foreign Organization were known as the National League for Germandom Abroad, the V.D.A., and the German Eastern League, the B.D.O.

I would refer the Tribunal to a document which they will find on page 38 of the document book. It is PS-837, which becomes GB-265. That is a letter which it will be seen on the next page is signed by Hess, dated 3 February, 1939. It is a circular order--"Not for publication. The subject is the National League of Germans Abroad and the German Eastern League. I quote from the first paragraph.

"The Director of the Agency for Racial Germans, SS Gruppenfuehrer Lorenz--"

The Agency for Racial Germans, which was the Volksdeutsche Mittelstelle, was another similar foreign organization, but one run by Himmler and the SS. All these gentlemen appear to have had their own foreign organizations. No doubt they were all engaged upon the same purpose. Himmler's was called the Volksdeutsche Mittelstelle. I quote again.

"The Director for that agency has instigated on my behalf the following nwe ruling for questions affecting racial work and

work in the border country. The National League for Germans Abroad, V.D.A., is the association responsible for national work beyond the frontiers."

I go down to the last two lines of that paragraph:

"The V. D. A. is organized into state associations which correspond in area to the Gaus of the NSDAP."

And the first two lines of the next paragraph:

"The German League, the B. D. O., is the association responsible for work on the border country."

I turn to the next page, paragraph 4 of that letter, Number 4:

"The V. D. A. is solely responsible for racial work beyond the frontiers. I hereby forbjd the Party, its organizations and affiliated associations from all racial work abroad. The only competent body for this task is the Agency for Racial Germans, and V. D. A. as its camoflouged tool. Within the Reich, the V. D. A., generally speaking, is responsible only for providing the means for racial work beyond the frontiers. V. D. A. must be supported in every way by the Party Officers. Any outward appearance of connection with the Party is, however, to be avoided."

Then it goes on to set out the activity of the B. D. O., and in the last paragraph:

"The activity of the V. D. A. and the B. D. O., is to be supported in every way by the Party offices. The National Socialist leaders of both associations will assure energetic cooperation, on their part, in all tasks assigned to them by the NSDAP. Their nature is determined by considerations of foreign policy and the associations must bear this in mind when representing them in public."

My Lord, I turn from the activity, therefore, of the Foreign Organization, which as I say, was the basis of the fifth column movement when war eventually broke out. I pass, then, to consideration of Hess' part in the preliminary occupations of Austria and Czechoslovakia, which led up to the aggressive wars themselves.

Hess is seen to be participating in the preparations to occupy Austria from the very beginning. In the autumn of 1934 it was he that appointed Reinthaler leader of the Austrian Peasants, the Nazi Party in Austria, after the failure of the July, 1934 rising. That has already been given in evidence: P. S. 812, U.S. 61, and the relevant passage was read into the transcript at Page 504.

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Another document that has already been put in evidence, PS-3254, U.S.704, is Seyss-Inquart's statement of 10 December 1945, when he mentions that he held meetings with Goering and Hess in 1936.

On the morning that German troops eventually marched into Austria, 12 March 1938, Hess and Himmler, together, were the first of the leaders of the German Government to appear in Vienna, and they were there by midday on that day.

It was Hess who signed the law of 13 March, the next day, for the reunion of Austria with the German Reich, and the Tribunal will, no doubt, remember the occasion, which was described fully by Mr. Alderman, of the shocking celebrations which were held in anniversary of the murder of Dollfus, the celebrations being held the 24th of July, 1938, when the highlight of the occasions was a speech by Hess.

I would refer the Tribunal to a document which appears on page 165 of the document, which throws some light in his own words, both on his activity as far as Austria was concerned and also with Czechoslovakia. This was a speech that he made on 28 August 1938 at the annual meeting of the Foreign Organization. It is 3258 P S. It is already in as 262 GB. I quote from the third but last paragraph on Page 165 of the document book.

"At the close of his talk Rudolf Hess recalls the days last year in Stuttgart, when German men and women, German boys and girls in their native costumes appeared here in Stuttgart aglow with enthusiasm for the ideal of greater Germany. Patiently removed from National Socialism, but nevertheless outwardly 'Volksdeutsche' Germans of foreign citizenship.

'Today', Rudolf Hess continued, 'they also stand openly in our ranks. Proudly and happily they will march in the formation of the National Socialist movement past their Fuehrer in Nurenberg. Withall our hearts we rejoice as we see them. They have fought a long and tough battle, a battle against a treacherous and mendacious enemy.'" --and so on.

And then on the next page, 166, where he turns to discuss the struggle of the Sudeten Germany:

"The German people looks at the German racial comrades in Czechoslovakia with the profoundest sympathy for their suffering. No one in the world who loves his own people and is proud of his own people will find faults with us if from this place here we also turn our thoughts to the Sudeten German. If we say to them, that filled with admiration, we see how they are maintaining

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an iron discipline, despite the worse chicanery, despite terror and murder. If it had in general required a proof."

I don't think, perhaps, it's necessary for me to read any more of that document, but it shows his interest in Czechoslovakia, and by Document 3061-PS, which has already been put in as US-126, it has been shown that during the summer of 1938--that speech was made in August of 1938--during the whole of that summer continuous conversations were being held between Henlein and Hitler, Hess, and Ribbentrop, informing the Reich Government of the general situation in Czechoslovakia. That document has been read into the transcript as page 932 of the transcript but, if anything, condemns Hess as participating in this action. It is a letter dated the 27th of September, 1938, which was a letter. It will be read. The Tribunal has had it before them. It was written by Keitel to Hess, asking for the Party's participation in the secret mobilization, which was intended to take place without even issuing the code word for mobilization. That was on the 27th of September 1938 that letter was written. It is 388-PS, and has been put in as US-26 and it appears on page 30 of the Tribunal's document book.

I would refer the Tribunal to one short document on page 120 of the document book, on which begins another speech by the defendant, a speech he made on the 7th of November 1938 on the occasion of the initiation of the Sudeten German Party into the NSDAP.

"If we had to defend our rights, then they would have really got to know us, we, the National Socialist Germans. 'The Fuehrer", he declared amidst the ringing cheers of the masses, 'learned his lessons. He armed at a speed that no one would have believed possible. When the Fuehrer has gained the power and, more specially, since the Fuehrer has awakened the resolution of the German people to put their strength behind their rights, then Germany's right will be conceded."

One might wonder what all those rights were at that time, November, 1938, when already Hitler had said on the 26th of September that he had no more territorial demands, at any rate, to make in Europe.

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I turn then to his part of some fragment of evidence of the part he played in the waging of aggressive war against Poland. On page 16 of the document book there is a report of a speech that he made on the 27th of August, 1939, which shows at least that he was taking part in the official propaganda that was being thrown at the world in those days, two days before the war was declared. I quote from the second paragraph:

"Rudolph Hess, constantly interrupted with strong applause from the German citizens living abroad as well as fellow countrymen from the District of Styria, stressed the unexampled forbearance shown by Germany towards Poland in the magnanimous offer of the Fuehrer that had endured peace between Germany and Poland. An offer that Mr. Chamberlain seems to have forgotten for he says he has heard nothing of Germany's having tried to solve certain acute present day questions by peaceful discussion. What else was the German offer then, if it was not such an attempt?"

Then he goes on to accuse Poland of agitating for war and so on. Poland's lack of responsibility is England. In view of the time, I shall quote no more of that. The document is in evidence and it becomes GB-266.

After the conquest of Poland, it was Hess that signed the decree incorporating Danzig into the Reich, decree of the 1st of September 1939, a decree incorporating Polish territories into the Reich on the 8th of October, 1939, and on the 12th of October, 1939, a decree for the administration of Polish territory, in which it was stated that regulations were to be made for the planning of German Lebensraum and economic scope. Those are all decrees in the Reichsgesetzblatt. I regret that the last two that I mentioned are not actually included in the Tribunal's document book, but the effect of them is set out in the trial brief. That, in view of the evidence that has been given as to his fifth column organization, is all that I propose to offer in respect of Poland. It must be clear that my submission will be that he was deeply involved both in the planning and in the preparation for aggressive war.

I turn to an example of his participation in war crimes and crimes against humanity. I refer only to two documents; one which appears as set

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out on page 18 of the trial brief, PS-3245, which becomes GB-267. It was an order issued by Hess through the Party chancellory demanding support from the Party for recruiting members for the Waffen SS; and one paragraph which is set out in the trial brief I quote:

"The units of the Waffen SS, consisting of National Socialists, are more suitable than other armed units for the specific tasks to be solved in the occupied eastern territories due to their intensive National Socialist training in regard to questions of race and nationality."

But, in view of what was happening and what was going to happen in the occupied eastern territories by the Waffen SS, we haven't, I know, forgotten the part they played in the destruction of the Warsaw Ghetto. I suggest that the inference that can be drawn from that letter is damning.

There is one further document. That document, I might say, will be found on page 121 of the Tribunal's document book. The other document that I would refer to in this respect is R-96, which becomes GB-268, and again that will be found on page 175 of the document book. It's a letter written by the Reich Minister of Justice to the Chief of the Reich Chancellor on the 17th of April, 1941, and it is discussing proposed penal laws for Jews and Poles in the occupied territories. It shows quite clearly that Hess has been involved in discussions on this subject because it refers to certain proposals that he himself has made. Lord, I would venture to draw the attention of the Tribunal to one or two passages. I quote from the beginning of that letter on page 175.

"It has been my opinion from the outset that special conditions prevailing in the annexed eastern territories require special measures of penal law and penal procedure against Poles and Jews."

And then I go on to the second paragraph, the first two lines.

"The aim to create a special law for Poles and Jews in the eastern territories was pursued further according to plan by the Ordinance dated 6 June 1940. By this Ordinance German penal law, which had been used in the eastern territories already from the outset was formally made applicable.

There I skip three lines.

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"The procedure for enforcing a prosecution has been abrogated for it seems intolerable that Poles or Jews should be able to force the German public prosecutor to instigate an indictment. Poles and Jews have also been deprived of the right to prosecute in their own names or join the public prosecutor in an action. In addition in this special law in the sphere of procedure, some special conditions have been included in Article 2 of the introductory Ordinance. These provisions were established in agreement with the Reich Minister of Interior on the basis of needs which had made themselves felt. From the beginning it was intended to augment the special conditions in case of need. This need which had been apparent in the meantime was to be met by an executive and supplementary order which was added to the original ordinance and which was referred to in the letter from the Fuehrer's deputies."

I turn to the next page, top of the page:

"Later I was informed of the express wish of the Fuehrer. As a matter of principle, Poles, and I presume the Jews, are to be treated differently from the Germans within this sphere of penal law. After preliminary discussions, et cetera, I drew up the enclosed draft concerning criminal law and procedure against Poles and Jews."

I skip to the next paragraph: "The draft represents altogether special law, both in the sphere of penal law and penal procedure.

"The suggestions of the Deputy Fuehrer have been taken into consideration to a far-reaching extent. Number 1: Paragraph 3 contains a general crime formula on the basis of which any Pole or Jew in the Eastern territory can in future be prosecuted an any kind of punishment can be inflicted on him for any attitude or action which is considered punishable and is directed against Germans."

Then I go on to the next paragraph:

"In accordance with the opinion of the Deputy of the Fuehrer, I started from the point of view that the Pole is less susceptible to the infliction of ordinary imprisonment."

And a few lines further down, "Under these new kinds of punishment prisoners are to be lodged outside prisons in camps and are to be forced to do heavy and heaviest

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labor."

I go to the next page, second paragraph:

"The introduction of corporal punishment, which the Deputy of the Fuehrer has brought up for discussion, has not been included in the draft. I cannot agree to this type of punishment because its infliction does not, in my opinion, correspond to the cultural level of the German people."

My Lord, as I said, the purpose of that document is to show that the Deputy of the Fuehrer was well aware of what was going on in the Eastern occupied territories and indeed was advocating even stronger measures than the Reich Minister of Justice was prepared to accept.

I turn then to give such evidence as I can upon the flight of the defendant Hess to England on the 10th of May 1941.

On that evening he landed in Scotland, quite close, within 12 miles of the home of the Duke of Hamilton, and on landing he at once asked to be taken to the Duke of Hamilton, whom he wanted to see. He gave a false name and was shut up, and on the following day, the 11th of May, he had an interview with the Fuke of Hamilton, a report of which is set out in the addendum to the document book, if the Tribunal would now turn to the small addendum to the document book.

THE PRESIDENT: Has this been put in evidence yet or not?

LT. COL. GRIFFITH JONES: My Lord, I am putting it in evidence.

THE PRESIDENT: Is it properly authenticated?

LT. COL. GRIFFITH JONES: It is authenticated, and the original is certified as being a Government report from the files of the Foreign Office in London. There are four reports altogether, which come from the Foreign Office file and which have been certified as reports from the Foreign Office.

The first one that I would refer to is M-116, which becomes GB-269, and is a report on the interview that he had with the Duke of Hamilton on the 11th of May 1941. I can summarize most of the contents of that report by saying that he introduced himself as Hess. He said that he had met the Duke of Hamilton at the Olympic Games in 1936, and that his old friend, Haushofer, under whom he studied at Munich University after the last war had suggested that he, Hess, should make contact with the Duke of Hamilton.

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He said that in order to do so he had already tried to fly three times before, the first being in December of 1940, the previous year. The reasons he then gave for his visit will be found on the second page of that document. I quote from the end of the fourth line.

I beg your pardon. Perhaps I ought to say really before that, that he said that he had said earlier in the interview that Germany was willing for peace with England; that she was certain to win the war; and he himself was anxious to stop the unnecessary slaughter that would otherwise inevitably take place.

"He asked me if I could get together leading members of my party to talk over things with a view to making peace proposals. I replied that there was now only one party in this country. He then said he could tell me what Hitler's peace terms would be:

"First, he would insist on an arrangement whereby our two countries would never go to war again. I questioned him as to how that arrangement could be brought about, and he replied that one of the conditions of course is that Britain would give up her traditional policy of always opposing the strongest power in Europe."

I think I need really read no more of that document, because he enlarges upon those proposals in the subsequent interviews that he had on the 13th, 14th, and 15th of May with Mr. Kirkpatrick of the Foreign Office.

I turn to M-117, which becomes 270, which is another official report of the interview with Mr. Kirkpatrick on the 13th of May. Again I can summarize practically all of it.

He started off by explaining the chain of circumstances which led up to his present situation, which really involved a history of Europe from the end of the last war up to that time. He dealt with Austria, Czechoslovakia, Poland, Norway, saying in each case that Germany was justified and it was all England's and France's fault that they had had to get in it. He blamed England entirely for starting the war. He did say--and I quote one line which is of interest, dealing with Munich. He said "The intervention of Mr. Chamberlain--

THE PRESIDENT: (Interposing) Where are you reading?

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LT. COL. GRIFFITH JONES: I am reading from the fifth paragraph, my Lord. It starts off:

"The Czechoslovakian crisis was caused by the French determination, expressed by the French Air Ministry, to make Czechoslovakia an air base against Germany. It was Hitler's duty to scotch this plot. The intervention of Mr. Chamberlain and the Munich conference had been a source of great relief to Hitler."

If one remembers somewhere having heard in the course of this case Hitler saying that he had of course no intention of abiding by that agreement at all, that that would never do.

I go on with that document. He then says that Germany must win the war. He says that the bombing of England had only just started, and only just started with the greatest reluctance. As he puts it at the tope of page 2, the German production of U-Boats was enormous. They had enormous raw material resources in occupied territory, and the confidence in Hitler and in final victory in Germany was complete; and that there was no kind of hope for any revolution amongst the German people.

He gave his reasons for his flight, his personal reasons again, that he was horrified at the prospect of a long war. England could not win, and therefore she had better make peace now. He said the Fuehrer entertained no designs against England. He had no idea of world domination, and he would greatly regret the collapse of the British Empire.

I quote from the last three lines of the large paragraph in the center of the page:

"At this point Hess tried to make my flesh creep by emphasizing that the avaricious Americans had fell designs on the Empire. Canada would certainly be incorporated in the United States.

"Reverting to Hitler's attitude, he said that only as recently as May 3rd after his Reichstag speech, Hitler had declared to him that he had no oppressive demands to make of England.

"The solution which Herr Hess proposed was that England should give Germany a free hand in Europe, and Germany would give England a completely free hand in the Empire, with the sole reservation that we should return Germany's

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ex-colonies, which she required as a source of raw materials. I asked, in order to draw him on the subject of Hitler's attitude to Russia, whether he included Russia in Europe or in Asia. He replied 'In Asia.' I then retorted that under the terms of his proposal, since Germany would only have a free hand in Europe, she would not be at liberty to

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attack Russia. Herr Hess reacted quickly by remarking that Germany had certain demands to make of Russia which would have to be satisfied either by negotiation or as the result of a war. He added, however, that there was no foundation for the rumors now being spread that Hitler was contemplating an early attack on Russia.

"I then asked about Italian aims and he said that he did not know them. I replied that it was a matter of some importance. He brushed this aside and said that he was sure that Italy's claims would not be excessive. I suggested that Italy scarcely deserved anything, but he begged to differ. Italy had rendered considerable services to Germany, and besides England had compensated defeated nations like Rumania after the last war.

"Finally, as we were leaving the room, Herr Hess delivered a parting shot. He had forgotten, he declared, to emphasize that the proposal could only be considered on the understanding that it was negotiated by Germany with an English Government other than the present British Government. Mr. Churchill, who had planned the war since 1936, and his colleagues who had lent themselves to his war policy, were not persons with whom the Fuehrer could negotiate."

My Lord, presumably when he came over he was not attempting to be funny. One can only conclude from these reports that at that time the people in Germany and the German Government really had no kind of idea of what the conditions in England were like at all, but throughout it appears that this man thought England was ruled by Churchill and a small war-mongering gang. It only needed him to come over and make a peace proposal for Churchill to be turned out in the course of two or three days.

I go on, then, to the next document, my Lord. I am afraid that it is now half past five. I have only the other reports and one further document to refer the Tribunal to.

THE PRESIDENT: I think you had better go on. We will finish tonight.

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LT. COL. GRIFFITH-JONES: I am sorry it has taken so long.

I go on to the next interview of the 14th of May, which is M-118 and becomes 271.

He started off that interview by making certain complaints about the treatment, asking for a number of things, including, "Three Men in a Boat," the book which perhaps is one of the few signs that any of these Defendants have shown any kind of culture or normal feelings at all.

He described his flight to England, and then I quote from the third paragraph.

"He then passed to political questions. He said that, on reflection, he had omitted to explain that there were two further conditions attached to his peace proposals. First: Germany could not leave Iraq in the lurch. The Iraquis had fought for Germany and Germany would, therefore, have to require us to evacuate Iraq. I observed that this was going considerably beyond the original proposal that German interests should be confined to Europe, but he retorted that, taken as a whole, his proposals were more than fair. The second condition was that the peace agreement should contain a provision for the reciprocal indemnification of British and German nationals, whose property had been expropriated as the result of war.

"Herr Hess concluded by saying that he wished to impress on us that Germany must win the war by blockade. We had no conception of the number of submarines now building in Germany. Hitler always did things on a grand scale and devastating submarine war, supported by new types of aircraft, would very shortly succeed in establishing a completely effective blockade of England. It was fruitless for anyone here to imagine that England could capitulate and that the war could be waged from the Empire. It was Hitler's intention, in such an eventuality, to continue the blockade of England, even though the island had capitulated, so that we would have to face the deliberate starvation of the population of these islands."

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I think I can leave then that interview. Nothing more was added. I turn to the next document, M-119, which becomes 272, and which is the report of the interview of the 15th of May, the third and last interview with Mr. Kirkpatrick. I quote from the third paragraph. There was some mention of Iraq at the beginning of the interview, and then Mr. Kirkpatrick writes.

"I then threw a fly over him about Ireland. He said that in all his talks with Hitler, the subject of Ireland had never been mentioned except incidentally. Ireland had done nothing for Germany in this war and it was therefore to be supposed that Hitler would not concern himself in Anglo-Irish relations. We had some little conversation about the difficulty of reconciling the wishes of the South and North and from this we passed to American interest in Ireland, and so to America.

"On the subject of America, Hess took the following line. The Germans reckoned with American intervention and were not afraid of it. They knew all about American aircraft production and the quality of the aircraft. Germany could outbuild England and America combined.

"Germany had no designs on America. The so-called German peril was a ludicrous figment of imagination. Hitler's interests were European.

"If we made peace now, America would be furious. America really wanted to inherit the British Empire.

"Hess concluded by saying that Hitler really wanted a permanent understanding with us on a basis which preserved the Empire intact. His own flight was intended to give us a chance of opening conversations without loss of prestige. If we rejected this chance, it would be clear proof that we desired no understanding with Germany, and Hitler would be entitled, in fact it would be his duty, to destroy us utterly and to keep us after the war in a state of permanent subjection."

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My Lord, those report show the substantia.. substance of the visit. His humanitarian reasons . sounded so well between the 10th and 15th of May, took different light when barely a little more than a month lat.. attacked the Soviet Union.

One cannot help remembering an exact parallel between this business and that which took place before Germany attacked Poland when every effort was made to keep England out of the war and so let her fight her battle on one front only. Here the same thing appears to be happening, and what is more, we have it from himself in the course of those interviews that at that time Germany had no intentions of attacking Russia immediately at all. Well, that must be untrue, because it will be remembered, and the evidence is set out in the trial brief, it will be remembered that so far back as November 1940 there had been plans being made, initial plans, for the invasion of Russia.

On the 18th of December 1940 directive ordered preparations to be completed by the 15th of May, 1941.

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On the 3rd of April 1941 orders were given delaying the Barbarossa action for five weeks, and on the 30th of April 1941, 10 days before he arrived in England, D-day was actually fixed for the invasion of Russia for the 22nd of June.

Well, now, in my submission, nobody who held the position that this defendant did at that time, in charge of the foreign organization, Deputy to the Fuehrer, only been made designate successor number two a year ago -- nobody in that position could have been kept in ignorance of those preparations and of those plans.

My Lord, my submission, therefore, is that the only reason he came to England was not humanitarian at all, but purely, as I say, to allow Germany to fight her battle against Russia on one front only.

There is -- and I hesitate to refer the Tribunal to any other document -- but there is one document, which is a document of extreme interest from many points of view and has only just come to light. I did ask that it should be put in at the back of the Tribunal's document book, but if it has not been I have some spare copies which perhaps the clerk may now hand out.

It is Document PS-1866, which becomes 273, and it is an account of conversations between Ribbentrop and Mussolini and Ciano on the 13th of May 1941, signed by Schmidt.

It carries the question very little further, but there has existed and still does exist the question of course as to whether or not the flight to England was undertaken with the knowledge and approval of Hitler or any other members of the Government or on his own initiative and in complete secrecy. He himself has always maintained that he did it secretly. On the other hand, it is difficult to see how he could have been planning it and practising it for months before and having tried three times before without anybody knowing.

This account of the conversations with the Italians cast little further light on it, but it does show anyway what Ribbentrop is saying to the Italians, their allies, three days later. I would ask the Tribunal to look at and read the first page of this document, and the paragraph of the next page.

"To begin with the Reich Minister conveyed the Fuehrer's greetings to the Duce.

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"He would shortly propose to the Duce a date for the planned meeting, which he would like to take place as soon as possible. As the place for the meeting he would probably prefer the Brenner. At the present moment he was, as the Duce could well understand, still busy with the Hess affair and with a few military matters.

"The Duce replied that he would agree with all the Fuehrer's proposals," and so on.

"The Reich foreign minister then said that the Fuehrer had sent him to the Duce in order to inform him about the Hess affair and the conversation with Admiral Darlan about the Hess affair. He remarked that the Fuehrer had been completely taken aback by Hess's action, and that it had been the action of a lunatic.

"Hess had been suffering for a long time from a bilious complaint and had fallen into the hands of magnetists and nature-cure doctors who allowed his state of helath to become worse.

"All these matters were being investigated at the moment as well as the responsibility of the aides-de-camp who had known about Hess' forbidden flights. Hess had for weeks carried out secret practice flights in an ME 110. Naturally he had acted only from idealistic motives. His being unfaithful to the Fuehrer was utterly out of the question. His conduct had to be explained by a kind of mysticism and a state of mind caused by his illness."

And it goes on, and the gist of it really is that Ribbentrop is emphasizing again that it was done without the authority of Hitler or anyone else in Germany.

THE PRESIDENT: Can't you read the beginning of the next paragraph?

SIR GRIFFITH-JONES: "Being sympathetically inclined towards England Hess had conceived the crazy idea of using Great Britain's Fascist circles to persuade the British to give in. He had explained all this in a long and confused letter to the Fuehrer. When this letter reached the Fuehrer, Hess was already in England. It was hoped in Germany that he would perhaps have an accident on the way, but he was now really in England and had tried to contact the former Marquis of Clydesdale, the present Duke of Hamilton. Hess quite wrongly considered him as a great friend of Germany and had flown to the neighborhood of his castle in Scotland."

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THE PRESIDENT: Thank you very much.

SIR GRIFFITH JONES: That is what Ribbentrop is saying to Mussolini. Ribbentrop, we know, is a liar, and indeed what he said later on in an interview proves it, and I would thus refer to page five -or rather to the bottom of page four -- if the Tribunal would bear with me while I read that, because it would have been put in previously during this trial had this document been known of. And as I am putting it in now, perhaps I might be allowed to read this one paragraph which really concerns the defendant Ribbentrop.

"The Duce returned to his remark concerning the united front of Europe against England and the two countries, Spain and Russia, that were absent from it, with the remark that to him it seemed that it would be advantageous if a policy of collaboration with Russia could be carried out. He asked the Reich Foreign Minister whether Germany excluded such a possibility, that is, collaboration with Russia. The Reich Foreign Minister replied that Germany had treaties with Russia, and that the relations between the two countries were in other respects correct. He personally did not believe that Stalin would undertake anything against Germany, but should he do so, or should he carry out a policy that was intolerable to Germany then he would be destroyed within three months.The Duce agreed to this. The Fuehrer would certainly not look for any quarrel, but he had nevertheless taken precautions" -- this is again, I think, Ribbentrop speaking -- "The Fuehrer would certainly nt look for any quarrel, but he had nevertheless taken precautions for all eventualities. He had in now way come to any decision, but as a result.of certain occurrences and want of clearness on the part of the Russians, he had become suspicious. Thus, for example, the Russians had strengthened their forces along their western frontier, which of course, caused Germany to reinforce her troops too, but only after theRussians started it."

It really must have been a remarkable position in the German Government if neither the Fuehrer nor the foreign secretary knew on the 13th of May 1941 that Germany was going to attack Russia a month later.

My Lord, that is the evidence which I have to present to the Tribunal

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on this matter. I regret that this should have taken so long. I am grateful to Your Honors for your patience.

(Whereupon at 1800 hours the Court adjourned to reconvene at 1000 hours 8 February 1946).